FEDERAL REGISTER

VOLUME 24 NUMBER 82

Washington, Tuesday, April 28, 1959

Title 3—THE PRESIDENT

Proclamation 3286

WORLD TRADE WEEK, 1959

By the President of the United States of America

A Proclamation

WHEREAS commerce among the nations contributes to the economic stability and progress of the United States and its trading partners; and

WHEREAS international trade provides regular and direct lines of communication between the peoples of the world, thus stimulating mutual respect and understanding which are the groundwork of peace; and

WHEREAS growing competition in international trade requires that greater effort be made in this vital area:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby proclaim the week beginning May 17, 1959, as World Trade Week; and I request the appropriate officials of the Federal Government, and of the State and local governments, to cooperate in the observance of that week.

I also urge business, labor, agricultural, educational, and civic groups, as well as individual citizens, to observe World Trade Week with gatherings, discussions, exhibits, ceremonies, and other appropriate activities designed to promote continuing awareness of the importance of world trade to our economy and to our relations with other nations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-second day of April in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 59-3620; Filed, Apr. 24, 1959; 4:43 p.m.]

Executive Order 10812

ESTABLISHING A FLAG FOR THE UNITED STATES NAVY

WHEREAS the Secretary of the Navy, with the approval of the Secretary of Defense, has adopted, and has recommended that I approve, an official flag for the United States Navy, the design of which accompanies and is hereby made a part of this order,[1] and which is described as follows:

United States Navy Flag. The flag for the United States Navy is 4 feet 4 inches hoist by 5 feet 6 inches fly, of dark blue material, with yellow fringe, 2½ inches wide. In the center of the flag is a device 3 feet 1 inch overall consisting of the inner pictorial portion of the seal of the Department of the Navy (with the exception that a continuation of the sea has been substituted for the land area), in its proper colors within a circular yellow rope edging, all 2 feet 6 inches in diameter above a yellow scroll inscribed "UNITED STATES NAVY" in dark blue letters;

AND WHEREAS it appears that such flag is of suitable design and appropriate for adoption as the official flag of the United States Navy:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, I hereby approve such flag as the official flag of the United States Navy.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
April 24, 1959.

[F.R. Doc. 59-3599; Filed, Apr. 24, 1959; 12:58 p.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—ALASKA COMMERCIAL FISHERIES

PART 104—BRISTOL BAY AREA

Revision of Part

Basis and purpose. Following public procedure pursuant to notice of proposed

[1] Filed as part of the original document.

(Continued on p. 3267)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

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rule making published in the FEDERAL REGISTER on November 14, 1958 (23 F.R. 8874), as modified by a supplemental notice published on November 26, 1958 (23 F.R. 9144), the regulations under Subchapter F—Alaska Commercial Fisheries were revised in their entirety to prescribe conditions and restrictions appropriate to commercial fishing activities generally in Alaska for the 1959 season. The revision of the Subchapter was adopted by the Secretary of the Interior on March 7, 1959, and was published in the FEDERAL REGISTER of March 19, 1959 (24 F.R. 2053), to be effective at the beginning of the 30th day following such publication.

With respect to Part 104—Bristol Bay Area, the revised regulations merely defined salmon fishing districts and prescribed limitations upon personal use fishing with nets; it having been explained by a footnote following the part that the promulgation of the commercial salmon fishery regulations for 1959 in the Bristol Bay Area was being delayed pending clarification of the high seas fishery situation.

Protracted negotiations in an effort to bring about a limitation in 1959 on the catch of red salmon of Bristol Bay origin by nationals of another country operating in the high seas have thus far been unproductive. It thus becomes necessary to prescribe salmon fishery regulations for the Bristol Bay Area in the light of the substantial quantities of red salmon destined for the area which are likely to be intercepted in the high seas during 1959.

In anticipation of poor cyclic runs of red salmon returning to Bristol Bay in 1959 and in view of the continuing threat of an intense fishery in the high seas for these populations of salmon, it has been found necessary to curtail drastically red salmon fishing operations in the Bristol Bay Area for the coming season. The red salmon runs to Bristol Bay in 1959 are expected to be comparable in volume to those of 1958. In that year inadequate numbers of fish ascended the rivers to the spawning grounds. In 1958 approximately 3 million red salmon were taken in the Bristol Bay fishery. At the same time approximately 2½ million escaped to the spawning grounds, or slightly more than one half of the minimum escapement determined to be necessary for spawning purposes in 1959.

It is expected that the high seas fishery in 1959 by nationals of another country will be more intense on populations of red salmon of Bristol Bay origin than in 1958. To prevent the decimation of the cyclic run and the loss of future runs dependent upon 1959 brood stock, the greater portion of the red salmon which escape capture in the high seas must be allowed to reach the spawning grounds. It thus becomes necessary to prescribe a complete closure on the taking of red salmon in the Kvichak-Naknek, Egegik and Ugashik districts, and to limit to a subsistence-type fishery the numbers of red salmon which may be taken in the Nushagak district. Regulatory provisions comparable to those of 1958 are deemed adequate for the red salmon fishery in the relatively inconsequential Togiak district and for the king, coho, chum, and pink salmon fishing seasons in all districts of the Bristol Bay Area.

In view of the considerations expressed above and careful consideration having been given to all relevant matters submitted orally and in writing as a result of the notice of proposed rule making cited above, the regulations under Part 104—Bristol Bay Area are revised in their entirety as set forth below.

This revision shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

Dated: April 24, 1959.

FRED A. SEATON,
Secretary of the Interior.

Sec.

AUTHORITY: §§ 104.1 to 104.90 issued under sec. 1, 43 Stat. 464, as amended; 48 U.S.C. 221.

§ 104.1 Definition.

The Bristol Bay area includes all waters of Alaska in Bristol Bay east of a line from Cape Newenham to a point 3 statute miles south of Cape Menshikof.

SALMON FISHERY

§ 104.2 Definitions, fishing districts.

Fishing, except trolling, is prohibited except within the following-described districts:

(a) *Nushagak district.* Waters of Nushagak Bay within a line between the white Coast and Geodetic Survey markers located at Nichols Hill and Etolin Point, respectively.

(b) *Kvichak-Naknek district.* Waters of Kvichak Bay within a line from a point at 58°33′ N. latitude, 157°20′ W. longitude, to a point at approximately 58°44′18″ N. latitude, 157°40′ W. longitude.

(c) *Egegik district.* Waters bounded by a line from Cape Chichagof at 58°20′ N. latitude, to a point 3 miles due west, thence to a point 2 miles due west of the outer buoy marking the entrance to the Egegik River, thence to a point 3 miles offshore at 58° N. latitude, thence due east to the shoreline.

(d) *Ugashik district.* Waters bounded by a line from 3 miles north of Cape Greig light to a point 3 miles due west, thence to a point 2 miles due west of the outer buoy marking the entrance to the Ugashik River, thence to a point 3 miles due west of Cape Menshikof, thence to the southern terminus of the area at a point 3 miles south of Cape Menshikof.

(e) *Togiak district.* All waters north of a line from Right Hand Point to Cape Pierce.

§ 104.3 Registration.

No fishing by means of any gear will be permitted unless and until the same has been registered with the local representative of the Fish and Wildlife Service for the district where such gear is to be used. All units of gear intended to be used in fishing must be registered in the respective districts by not later than 6 p.m. of the Friday immediately preceding the week in which such gear is to commence fishing for the season or prior to a change of districts. After the close of registration at 6 p.m. each Friday, no additions to or changes in registration will be permitted.

§ 104.5 Seasons.

(a) *Nushagak district.* Fishing, except trolling, is prohibited prior to June 1, and after August 31.

(b) *Kvichak-Naknek district.* Fishing, except trolling, is prohibited prior to June 1, from June 22 to July 18, both dates inclusive, and after August 31.

(c) *Egegik district.* Fishing, except trolling, is prohibited prior to June 1, from June 22 to July 18, both dates inclusive, and after August 31.

(d) *Ugashik district.* Fishing, except trolling, is prohibited prior to June 1, from June 22 to July 18, both dates inclusive, and after August 31.

(e) *Togiak district.* Fishing, except trolling, is prohibited prior to June 1, and after August 31.

§ 104.9 Weekly closed periods.

(a) In the Nushagak district and during the period June 22 to July 19, the statutory weekly closed period of 36 hours is extended so as to limit fishing to the number of days per week set out in the following table, wherein the number of days of fishing is governed by the total number of units of gear registered for fishing in the district as of 6 p.m. of the Friday immediately preceding the week in which fishing is permitted.

NUSHAGAK DISTRICT

Units of gear:	*Days of fishing per week*
244 or more	1
171–243	2
147–170	2½
122–146	3
98–121	3½
85–97	4
84 or less	5

(b) For the purposes of this section, a unit of gear is considered to be one 150-fathom drift gill net as finished from a two-man boat. When the allowable fishing time is less than 4½ days in any week, fishing will commence at 9 a.m.,

on Monday and at 9 a.m., on Thursday and will be continuous thereafter for one-half of the total time allowed. When the allowable fishing time is 4½ or more days in any week, fishing will commence at 9 a.m. Monday and be continuous for the allowable period. As used in this section, "day" refers to a period of 24 hours.

(c) Announcement of the total number of registrations for the district will be made locally within 18 hours after the close of registration and by publication in the FEDERAL REGISTER.

(d) From June 1 to 20, inclusive, in the Nushagak district the weekly closed period is extended to include the period from 12 noon Friday to 12 noon Monday.

§ 104.10 Gear restrictions.

(a) Fishing is prohibited, except with drift or set gill nets or troll gear.

(b) The use of smelt nets is prohibited in localities where young salmon are migrating.

§ 104.11 Aggregate length and operation of drift gill nets.

(a) No fishing boat shall operate, assist in operating, or have aboard either it or any boat towed by it, more than 150 fathoms in the aggregate.

(b) In the period from June 22 to July 19:

(1) No gill net registered as a set gill net may be used as a drift gill net, nor may any gill net registered as a drift gill net be used as a set net;

(2) No fisherman licensed to operate or assist in operating a drift gill net shall operate or assist in operating a set gill net; and no fisherman licensed to operate or assist in operating a set gill net shall operate or assist in operating a drift gill net;

(3) During any weekly open fishing period the picking of any drift gill net shall be deemed to be a part of the fishing operation and shall be performed only on a registered net by the fishermen licensed to operate a particular legal limit of gear;

(4) The operation of each particular legal limit of set gill net shall be performed or assisted by the fisherman in whose name it is registered.

§ 104.12 Size of mesh and depth of gill nets.

(a) Stretched measure shall not be less than 8½ inches prior to June 22, and shall not be less than 5½ inches from June 22 to July 19.

(b) Depth of gill nets shall not exceed 28 meshes.

§ 104.13 Marking of gill nets.

Each drift gill net in operation shall have a suitable bright red keg, buoy, or cluster of floats at each end which shall be plainly and legibly marked with the permanent Bureau registration number, and bright red double floats shall be attached to the cork line at 25-fathom intervals.

§ 104.14 Marking of boats.

Each gill net fishing boat in operation shall display its Bureau registration number in permanent symbols at least 12 inches in height.

§ 104.15 Aggregate length and operation of set nets.

(a) The aggregate length of set nets used by any individual shall not exceed 50 fathoms hung measure.

(b) Set nets shall be operated in substantially a straight line.

(c) Every operator of a set net shall furnish to the local representative of the Bureau in advance of the fishing season a sworn statement that he is a citizen of the United States and had resided continuously in the area embracing Bristol Bay and the arms and tributaries thereof for a period of at least two years.

(d) Fishing with set nets shall be limited to beach areas between high and mean low water marks, exclusive of bars or flats that at low tide are not connected by exposed land to the shore or places not covered at high tide.

§ 104.18 Maximum length of motor boats.

No motor-propelled boat used in drift gill-net fishing shall exceed 32 feet in length overall.

§ 104.25 Minimum distance between units of gear.

The minimum operating distance at any time between any part of one net and any part of another net shall be not less than 300 feet, except that the operating distance between any part of one set net and any part of another in the Nushagak district shall be not less than 450 feet.

§ 104.34 Closed waters.

Fishing is prohibited as follows:

(a) *Nushagak Bay.* North of a line from a marker 2 statute miles below Bradford Point to a marker on the opposite shore at Nushagak Point.

(b) *Kvichak Bay.* Northeast of a line from Graveyard Point light to a point on the opposite shore at 58°32'22'' N. latitude, 157°04'16'' W. longitude.

(c) *Naknek Bay.* Within 1 statute mile of the terminus of the Naknek River.

(d) *Egegik Bay.* East of a line from a marker 250 yards east of Libby, McNeill & Libby's cannery building to a marker on the opposite shore 175 yards east of the Alaska Packers Association's cannery building.

(e) *Ugashik River.* Southeast of a line extending at right angles across the river 500 yards below the terminus of King Salmon River, except by set nets in the area extending from a point 200 yards north of the Wingard Packing Company cannery to a point 1,200 yards north of that cannery.

PERSONAL USE FISHERY

§ 104.90 Seasons, salmon.

Personal use fishing with nets is prohibited, except that—

(a) Set nets only may be used in the Kvichak-Naknek, Egegik, Ugashik, and Togiak districts.

(b) In the Nushagak district, set nets only may be used (in the alternative) (1) prior to noon June 20 and after noon July 20 throughout the entire district; (2) from 6 a.m. to 6 p.m. each Saturday in waters open to commercial fishing; (3) at any place over 12 miles upstream from waters open to commercial fishing; and (4) between Snag Point and Bradford Point if such nets do not exceed 15 fathoms in length and if they have been previously registered with the local representative of the Bureau.

[F.R. Doc. 59-3619; Filed, Apr. 27, 1959; 9:24 a.m.]

SUBCHAPTER J—AID TO FISHERIES

PART 160—FISHERIES LOAN FUND PROCEDURES

PART 165—FISHING VESSEL MORTGAGE INSURANCE PROCEDURES

By notice of proposed rule making published on January 23, 1959 (24 F.R. 528), notice was given of the intention of the Secretary of the Interior to adopt regulations as therein set forth in tentative form to govern Federal ship mortgage insurance for fishing vessels. The public was informed that consideration would be given to any written comments, suggestions, or objections relating to the proposed regulations which were received by the Director, Bureau of Commercial Fisheries, Washington 25, D.C., within thirty days of the date of publication of the notice in the FEDERAL REGISTER. Response to the notice of proposed rule making was limited to one suggestion which has been incorporated in § 165.3 (c) (1) of the regulations as set forth below.

Accordingly, the headnotes for Subchapter J and Part 160 are revised as indicated above and a new Part 165 designated "Fishing Vessel Mortgage Insurance Procedures" is adopted as set forth below. These revisions shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

Dated: April 21, 1959.

FRED A. SEATON,
Secretary of the Interior.

Sec.
165.1 Basis and purpose.
165.2 Definitions.
165.3 Eligibility requirements.
165.4 Applications.
165.5 Commitment.
165.6 Closing procedures.
165.7 Defaults.

AUTHORITY: §§ 165.1 to 165.7 issued under Title XI, 52 Stat. 969, as amended, 46 U.S.C. 1271–1279; sec. 6, 70 Stat. 1122; 16 U.S.C. 742e. Sec. 3, Bureau of the Budget determination March 22, 1958, 23 F.R. 2304.

§ 165.1 Basis and purpose.

(a) Title XI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279), authorizes the Secretary of Commerce to insure certain eligible loans and mortgages on vessels owned by citizens of the United States. As found and determined by the Director of the Bureau of the Budget on March 22, 1958 (23 F.R. 2304), all functions of the Maritime Administration, Department of Commerce, which pertain to Federal ship mortgage insurance for fishing vessels under authority of Title XI of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271–1279), were

transferred to the Department of the Interior by section 6(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742e).

(b) The purpose of this part is to prescribe rules and regulations governing Federal ship mortgage and loan insurance with respect to fishing vessels owned by citizens of the United States under Title XI, Merchant Marine Act, 1936, as amended.

§ 165.2 Definitions.

(a) *Fishing vessel.* The term "fishing vessel" includes all types of vessels owned by citizens of the United States used directly in the catching of fish or shellfish for commercial purposes.

(b) *Mortgage.* The term "mortgage" includes a preferred mortgage as defined in the Ship Mortgage Act, 1920, as amended, and a mortgage which will become a preferred mortgage when recorded and endorsed as required by the Ship Mortgage Act, 1920, as amended.

(c) *Loan.* The term "loan" includes any loan or advance of credit other than a mortgage loan.

(d) *Mortgagee.* The term "mortgagee" includes the original maker of a loan secured by a mortgage and his successors and assigns.

(e) *Lender.* The term "lender" includes the original maker of a loan or advance of credit other than a loan secured by a mortgage and his successors and assigns.

(f) *Mortgagor.* The term "mortgagor" includes the original borrower under a mortgage approved by the Secretary, and his successors and assigns.

(g) *Actual cost.* The term "actual cost" of a vessel as of any specified date means the aggregate as determined by the Secretary of (1) all amounts paid by or for the account of the mortgagor or borrower on or before that date, and (2) all amounts which the mortgagee is then obligated to pay from time to time thereafter under a contract or contracts for the construction, reconstruction or reconditioning (including designing, inspecting, outfitting and equipping) of the vessels, provided such contract or contracts shall include, in addition to profit, only those items customarily included in such contract or contracts as contractor's items of cost, except where the Secretary finds that those charges are unfair or unreasonable.

(h) *Reconstruction; reconditioning.* The terms "reconstruction" and "reconditioning" contemplates a rebuilding of the hull or hull and engine of such magnitude that the actual cost is more than thirty percent of the replacement value of the vessel.

(i) *Secretary.* The term "Secretary" means the Secretary of the Interior or his authorized representatives.

(j) *Act.* The term "Act" means the Merchant Marine Act, 1936, as amended.

§ 165.3 Eligibility requirements.

(a) *Mortgage.* To be eligible for insurance under this part, a mortgage:

(1) Shall have a mortgagee approved by the Secretary of the Interior as responsible and able to service the mortgage properly; and a mortgagor approved by the Secretary as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the mortgaged property;

(2) Shall involve an obligation in a principal amount which does not exceed 75 percent of the actual cost of the vessel, such actual cost to be determined by the Secretary prior to the execution of the mortgage and such determination to be conclusive for the purpose of determining the principal amount of the mortgage;

(3) Shall secure bonds, notes, or other obligations having maturity dates satisfactory to the Secretary not to exceed 15 years from the date of execution. In no event will a mortgage be insured for a time longer than the economic life of the mortgaged property, as determined by the Secretary. Ordinarily, the economic life of a vessel will be determined as running not more than 10 years from the date of completion of any reconstruction or reconditioning thereof.

(4) Shall contain amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor;

(5) Shall secure bonds, notes or other obligations bearing interest (exclusive of premium charges for insurance) at a rate not to exceed 5 per centum per annum on the amount of the unpaid principal at any time; or not to exceed 6 per centum per annum if the Secretary finds that in certain areas or under special circumstances, the mortgage or lending market demands it;

(6) Shall provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments to amortization of the principal of the mortgage, exclusive of the amount allocated to interest;

(7) Shall contain such terms and provisions with respect to the operation of the vessel or vessels, in a fishery or fisheries approved by the Secretary, repairs, alterations, payment of taxes, insurance, delinquency charges, revisions, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters pertinent to the security as the Secretary may require;

(8) Shall secure a loan made to aid in financing, including payment of loans previously made to finance, and reimbursement of the mortgagor for expenditures previously made for construction, reconstruction and reconditioning (including design, inspecting, outfitting and equipping) of fishing vessels being done or having been done by the firm submitting the lowest bid after the receipt of competitive bids, unless acceptance of a higher bid has been approved by the Secretary;

(9) Shall provide that the mortgagor shall pay to the mortgagee the amount required for the payment of each mortgage insurance premium charge at least 60 days before the payment of such premium charge to the Secretary is due and shall further provide that the failure of the mortgagor to make such payment shall be a default of the mortgage;

(10) Shall provide for the acceleration of the maturity date and immediate payment of the indebtedness in the event of any default in the performance conditions of the mortgage or in the event of the loss or destruction of the mortgaged property;

(11) Shall have the contract of insurance or commitment to insure approved before the launching of a vessel, if the application covers vessel construction, or before the work of reconstruction or reconditioning is completed if the mortgage is to pay for reconstruction or reconditioning; and

(12) Shall contain such other provisions as may be agreed upon between the mortgagor and mortgagee which are not inconsistent with the provisions of the preceding paragraphs of this subsection and which are not disapproved by the Secretary.

(b) *Loans.* To be eligible for insurance under this part a loan:

(1) Shall be made by a lender approved by the Secretary to a borrower approved by the Secretary as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the property;

(2) Shall be made to aid in financing, include payment of loans previously made to finance, and reimbursement of the borrower for expenditures previously made for construction, reconstruction, or reconditioning (including design, inspection, outfitting, and equipment) of fishing vessels being done or having been done by the firm submitting the lowest bid after the receipt of competitive bids, unless the acceptance of a higher bid has been approved by the Secretary;

(3) Shall be payable prior to or simultaneously with execution of the mortgage;

(4) Shall provide that no advance shall be made thereunder unless the sum of such advance and the principal amount of all other advances under insured loans then outstanding at the time of said advance shall be less than 75 percent of the actual cost of such vessel, such actual cost to be determined by the Secretary and such determination to be conclusive for the purpose of determining the principal amount of the loan;

(5) Shall provide for the payment first, from sources other than the insured loan, by and for the account of the owner, of not less than 25 per centum of actual cost, and thereafter for payments by the lender direct to the shipyard or other contractors, except where the payment is for reimbursement of the borrower for amounts expended by or for the account of the borrower on account of actual cost but excluding reimbursement for payments required to meet the first 25 per centum of the actual cost: *Provided,* That no payment shall be made by the lender until work representing 25 per centum of actual cost shall have been performed and that payments by the lender shall at no time exceed 75 per centum of actual cost of work performed to the time of payment;

(6) Shall provide that the borrower shall pay to the lender the amount required for the payment of each loan insurance premium charge at least 60 days before the payment of such premium

charge to the Secretary is due, and which shall further provide that the failure of the borrower to make such payment shall give the lender the right to mature the loan;

(7) Shall bear interest at an average interest rate not to exceed the maximum rate permitted by subparagraph (5) of paragraph (a) of this section;

(8) Shall provide for vesting of title to the vessel in the borrower according to payments made subject only to the lien or other rights of the contractor for additional amounts due and unpaid;

(9) The furnishing of satisfactory insurance and a satisfactory performance bond by the contractor;

(10) The performance of the work substantially in accordance with contract plans and specifications approved by the Secretary; with the provision that all changes under the contract require approval of the Secretary prior to the commencement of work involving the changed specifications; and the furnishing of all technical material necessary for the Secretary's approval of the changes;

(11) The furnishing of two copies of all working plans, schedules and sketches promptly after approval by the owner; two copies of correspondence regarding work being done or to be done; and one copy of the vessel's certificates, documents and test reports if required by the Secretary;

(12) Shall provide for a chattel mortgage on the vessel being constructed and such other security or collateral as the Secretary may require;

(13) Shall provide for the acceleration of the maturity date and immediate payment of the indebtedness in the event of any default in the performance conditions of the loan (mortgage) or in the event of the loss or destructon of the property (mortgaged property); and

(14) Shall contain such other provisions as may be agreed upon between the borrower and the lender which are not inconsistent with the provisions of the subparagraphs (1) to (13) of this paragraph and which shall not be disapproved by the Secretary, and such other provisions as may be required by the Secretary.

(c) *Premium charges.* (1) In the case of any mortgage insured under this part, the annual premium charge for such insurance shall be one per centum of the average principal amount of the mortgage outstanding if the face amount of the mortgage represents more than 50 per centum of the actual cost of the construction, reconstruction or reconditioning, and three-fourths of one per centum if the face amount of the mortgage represents 50 per centum or less of the actual cost of the construction, reconstruction or reconditioning.

(2) In the case of loans insured under this part the annual premium charge for such insurance shall be one-half of one per centum per annum of the average principal amount of the loan outstanding.

(3) Premium payments shall be made when moneys are first advanced under the mortgage or loan agreement and on each anniversary date thereafter. In the event that the Secretary at any time determines that the amount of any premium charge is not correct, he shall promptly give notice thereof to the lender and the borrower, specifying the amount of the deficiency or excess. The lender shall, within 30 days after receipt of said notice, pay or cause to be paid to the Secretary the amount of any deficiency. The Secretary shall promptly refund to the lender the amount of any excess.

(4) Unless otherwise specified by the Secretary, all premium charges may be paid by check, payable to the Secretary of the Interior delivered to the Bureau of Commercial Fisheries, Department of the Interior, Washington 25, D.C., accompanied by a letter stating that the payment is on account of a premium charge under the contract of insurance and specifying the period covered by the payment.

(5) Each premium charge shall be deemed to be fully earned when paid and no refund will be made by the Secretary of any premium charge paid in the event the insurance is terminated.

§ 165.4 Applications.

Applications may be for mortgage insurance, loan insurance, or both, or for commitments to insure.

(a) *Where filed.* Applications shall be filed with the Director, Bureau of Commercial Fisheries, Department of the Interior, Washington 25, D.C., on an application form furnished by the Bureau except that, in the discretion of the Secretary, an application made other than by use of the prescribed form may be considered if the application contains information deemed to be sufficient.

(b) *Processing of applications.* If it is determined on the basis of a preliminary review, that the application is complete and appears to be in conformity with the Act and this part, a field examination will be made. Following completion of the field examination, the application will be forwarded with an appropriate report to the Bureau of Commercial Fisheries, Washington, D.C. The application and all supporting documents must be filed in sufficient time to permit the Secretary to make a full and complete investigation and to take all other action required in respect thereto, and in any event not later than 90 days prior to the anticipated date of the closing of the transaction.

(c) *Books, records, and reports.* The Secretary shall have the right to inspect such books and records of the applicant as the Secretary may deem necessary. A commitment to insure or a contract of insurance made under this part shall be made only upon the agreement of the borrower and lender to furnish the Secretary, promptly upon his request, such reasonable material and pertinent reports, evidence, proof and information as he may require in connection with insurance granted or applied for, and to permit the Secretary, upon his request, to make such reasonable examination and audit of his records and books of account as the Secretary may deem necessary in connection with insurance granted or applied for.

(d) *Inspection of property.* The Secretary shall have access at all times to all vessels with respect to a loan or mortgage which is insured or for which an application for insurance has been filed.

(e) *Investigation fee.* Each application must be accompanied by payment pursuant to section 1104(e) of the Act in the amount of $50 or one-half of one percent of the original principal amount of the mortgage or loan to be insured, whichever is less, which payment will be retained by the Secretary irrespective of the final disposition of the application. After preliminary consideration of the application, the applicant shall pay to the Secretary upon request such additional amount or amounts as the Secretary may deem reasonable for the investigation of the application for insurance, necessary appraisals, issuance of commitments, and inspection of property during construction, reconstruction or reconditioning: *Provided,* That total charges shall not aggregate more than one-half of one percent of the original principal amount of the mortgage or loan to be insured. Any additional amount or amounts so paid shall be retained by the Secretary if the application is approved, and one-half of any additional amount or amounts so paid shall be retained by the Secretary if the application is not approved. Unless otherwise agreed by the mortgagor or borrower and the mortgagee or lender, all such amounts shall be paid by the mortgagor or borrower.

§ 165.5 Commitment.

A commitment to insure the loan or mortgage will be issued by the Secretary, when such a commitment is required prior to the actual completion of the note and/or mortgage. This commitment will provide that the Secretary will insure a loan or mortgage, and will further state the terms and conditions under which this insurance will be issued. It will also contain the covenants to be accepted by the borrower and lender.

§ 165.6 Closing procedure.

The contract of insurance shall take effect upon payment of the first year's insurance premium in accordance with § 165.3(c) and the signing of the contract of insurance by the Secretary, the borrower and the lender.

§ 165.7 Defaults.

(a) *Rights of mortgagee, lender, or Secretary.* In the event of any act or failure to act which gives the mortgagee the right to foreclose the mortgage or the lender the right to mature the loan, any of these events being herein called defaults, the rights of the mortgagee, the lender, and the Secretary are as prescribed in section 1105(a) of the Act.

(b) *Assignment to Secretary.* In the event an assignment of the mortgage or note and of the obligations securing the mortgage or note shall be tendered to the Secretary in accordance with section 1105(a) of the Act, the assignment shall be as approved by the Secretary and annexed to the contract of insurance and such other documents as may be required by the Secretary, and shall be duly exe-

cuted by or on behalf of the lender. Such assignment shall include the assignment to the Secretary of all collateral or security for the mortgage or loan and all policies of insurance held by the lender pursuant to the mortgage or loan agreement.

(c) *After assignment.* In the event the Secretary shall accept an assignment of a mortgage or loan agreement and the obligation or obligations secured by the same, upon default of the borrower, the Secretary may take any action authorized by sections 1105(c) and 1105(d) of the Act and any action authorized, permitted by, or provided for in the mortgage or loan agreement.

[F.R. Doc. 59-3542; Filed, Apr. 27, 1959; 8:47 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—FARM OWNERSHIP LOANS

[FHA Instruction 428.1]

PART 331—POLICIES AND AUTHORITIES

Average Values of Farms; New Mexico

On April 15, 1959, for the purposes of Title 1 of the Bankhead-Jones Farm Tenant Act, as amended, the average value of efficient family-type farm-management units for San Juan County, New Mexico, was determined to be $40,000. The average value heretofore established for said county, which appears in the tabulations of average values under § 331.17, Chapter III, Title 6, of the Code of Federal Regulations, is hereby superseded by the average value set forth herein for said county.

(Sec. 41, 50 Stat. 528, as amended; 7 U.S.C. 1015)

Dated: April 22, 1959.

[SEAL] H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 59-3582; Filed, Apr. 27, 1959; 8:47 a.m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1959 Honey Bulletin 1]

PART 434—HONEY

Subpart—1959 Honey Price Support Program

This bulletin (hereinafter called subpart) contains the regulations applicable to the 1959 Honey Price Support Program whereby the Secretary of Agriculture makes price support for extracted honey available through the Commodity Credit Corporation and the Commodity Stabilization Service (referred to in this subpart as CCC and CSS respectively).

Sec.

AUTHORITY: §§ 434.1001 to 434.1026 issued under sec. 4, 62 Stat. 1070 as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, 1054; 15 U.S.C. 714c, 7 U.S.C. 1446, 1421.

§ 434.1001 Administration.

This subpart will be administered by the Sugar Division, CSS, under the general direction and supervision of the Executive Vice President, CCC. In the field the program will be carried out by State and County Agricultural Stabilization and Conservation Committees (hereinafter called State and county committees) and by CSS commodity offices. Producers interested in participating in the program should contact their county office through which the price support documents will be distributed. A producer with whom the county office has experienced difficulties in settling a loan shall be ineligible for a honey loan, but he shall be eligible to enter into a purchase agreement. Approval of documents shall be by the county office manager, or other employee designated by him to act in his behalf. Such designations shall be on file in the county office. Copies of all honey price support documents shall be retained in the county office. County office managers, State and county committees, and CSS commodity offices do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements hereto.

§ 434.1002 Availability of price support.

(a) *Method of support.* Price support will be available through loans and purchase agreements.

(b) *Area.* Loans and purchase agreements will be available wherever eligible honey is produced in the continental United States.

(c) *Where to apply.* Application for price support should be made at the county office serving the county in which the honey is stored.

(d) *When to apply.* Loans and purchase agreements will be available from April 1, 1959, through December 31, 1959. Applicable documents must be signed by the producer and delivered to the county office not later than December 31, 1959.

(e) *Eligible producer.* (1) An eligible producer shall be any individual or other legal entity, including a partnership, association, or corporation, who, in 1959, extracts honey produced by bees owned by him. Executors, administrators, trustees, or receivers, who represent an eligible producer or his estate may qualify for price support provided the loan or purchase agreement documents executed by them are legally valid.

(2) A bona fide producer-owned and producer-controlled cooperative marketing association of honey producers operating in good faith as a cooperative marketing association of producers which satisfies the following conditions shall be deemed an eligible producer and shall be eligible for loans and purchase agreements on all eligible honey received from eligible producer-members:

(i) The major portion of the honey handled by the association is delivered to the association by producer-members;

(ii) The producer-members are bound by contract to deliver their eligible honey to the association free from all liens and encumbrances;

(iii) The producer-members must share proportionately in the proceeds from marketings of eligible honey according to the grade and quantity of such honey each delivers to the association.

(iv) The association must have authority to obtain a loan on the security of the eligible honey and to give a lien thereon as well as authority to sell such honey.

(3) All determinations with respect to the eligibility of cooperative marketing associations of producers shall be made by or under the direction of the State committee.

§ 434.1003 Eligible honey.

Any honey except that described in § 434.1004 which meets the following requirements at the time it is placed under loan or tendered for purchase under a purchase agreement, is eligible for price support.

(a) The honey shall be of the 1959 crop produced and extracted in the continental United States by an eligible producer.

(b) The honey shall be packed in metal containers of a capacity of not less than 5 gallons nor greater than 70 gallons and of a style used in normal commercial practice in the honey industry. All containers shall be filled to their rated capacities.

(1) The 5-gallon containers shall be new, clean, sound, uncased and free from appreciable dents and rust. The handle of each container shall be firm and strong enough to permit carrying the filled can. The cap liner and the threads on both the cap and the can opening shall not be damaged in any way that will prevent a tight seal. Cans which are punctured or have been punctured and resealed by soldering will not be acceptable.

(2) Steel drums shall be new, or used drums which have been reconditioned inside and outside. They shall be clean, treated to prevent rusting, and fitted with gaskets which provide a tight seal.

(c) The beneficial interest in the honey shall be in the producer tendering it for a loan or for delivery under a purchase agreement and must always have been in him, or must have been in him and in a former producer whom he succeeded as owner of the bees before the honey was extracted. In the case of a cooperative marketing association these requirements as to beneficial interest shall apply to each producer-member whose honey is placed under loan or tendered for purchase under a purchase agreement by the association.

(d) The honey shall be equal to or better than Grade C of the United States Standards for Grades of Extracted Honey, effective April 16, 1951: *Provided, however,* That in areas in which the State committee determines that existing conditions make fermentation of high moisture honey probable during the period of storage, the maximum moisture content allowable may be reduced by such committee from 20 percent to 18.6 percent for any or all floral sources.

(e) The honey offered for a farm-storage loan shall have been stored in containers specified in paragraph (b) of this section for at least 15 days prior to the drawing of samples by the loan inspector. The containers shall be stacked upright in a manner which will prevent damage to them and so arranged as to be readily accessible for inspection and sampling.

§ 434.1004 Ineligible honey.

Andromeda, Athel, Bitterweed, Broomweed, Cajeput, Carrot, Chinquapin, Dog Fennel, Desert Hollyhock, Gumweed, Mescal, Onion, Prickly Pear, Prune, Queen's Delight, Rabbit Brush, Snowbrush (Ceanothus), Snow-on-the-Mountain, Tarweed, and similar objectionably flavored honeys or blends of honey as determined by the Director, Sugar Division, CSS, shall not be eligible for price support, regardless of whether they meet other eligibility requirements.

§ 434.1005 Approved storage.

Loans shall be made only on honey in approved storage. Purchase agreements may be made without regard to whether the honey is in approved storage.

(a) *Farm-storage.* Farm-storage shall consist of storage structures located on or off the farm (excluding public warehouses) which are determined by the county office to be so located and so substantially and permanently constructed as to afford safe storage for honey. Structures shall be clean, dry, weather proof and lockable. Structures used to house honey other than that covered by a single price support loan shall be partitioned to preserve the identity of the honey covered by each price support loan, and to segregate the collateral honey from any other honey in the storage structure.

(b) *Cooperative storage.* Approved storage for cooperative marketing associations shall meet the requirements stated in paragraph (a) of this section. If the storage structure is used to house honey other than that which secures a single price support loan, the structure shall be partitioned to preserve the identity of the honey covered by each price support loan, and to segregate the collateral honey from any other honey in the storage structure: *Provided,* That preservation of the identity of each individual producer's honey in the lot which secures the price support loan will not be required.

§ 434.1006 Disbursement of loans.

Disbursement of loans will be made by financial institutions which are subject to separate regulations published in the FEDERAL REGISTER or by means of sight drafts drawn on CCC by county offices. No disbursement shall be made after January 15, 1960, unless recommended by the State committee and approved by the Executive Vice President, CCC. Payment in cash, credit to the producer's account, or the issuance of a check or draft, shall constitute disbursement. The producer shall not present the loan documents for disbursement of funds unless the honey is in existence, is in good condition, and is in approved storage. The disbursement received by the producer shall be promptly refunded by him if the honey was not in existence in good condition in approved storage at the time of disbursement.

§ 434.1007 Financial institutions.

As used in this subpart, a financial institution is a commercial bank which accepts demand deposits, or an association organized pursuant to State laws and supervised by State banking authorities, or a Production Credit Association.

§ 434.1008 Applicable forms and other requirements.

The approved forms consist of the loan and purchase agreement forms and such other forms and documents as are specified in this subpart and which, together with the provisions of this subpart, govern the rights and responsibilities of the producer. The note and supplemental loan agreements, chattel mortgages, and purchase agreements, must be dated, signed by the producer, and delivered to the county office on or before the final date of availability of loans or purchase agreements.

(a) *Loans.* Applicable forms shall consist of Producer's Note and Supplemental Loan Agreement, secured by Commodity Chattel Mortgage, Commodity Delivery Notice, Loan Settlement, and such other forms and documents as may be required by CCC.

(b) *Purchase agreements.* Applicable forms shall consist of the Purchase Agreement and Purchase Agreement Settlement signed by the producer and approved by the county office manager, the Commodity Delivery Notice issued by the county office, and such other forms and documents as may be required by CCC.

(c) *Other requirements.* The producer's Note and Supplemental Loan Agreements and Commodity Chattel Mortgages must have State and documentary revenue stamps affixed thereto when required by law. Loan and purchase agreement documents executed by an administrator, executor, or trustee, will be acceptable only where legally valid.

§ 434.1009 Liens.

If there are any liens or encumbrances on honey tendered for a loan or for delivery under purchase agreement, waivers that will fully protect the interests of CCC as determined by the county committee must be obtained.

§ 434.1010 Service charges.

Producers shall pay the following service charges on the quantity of honey placed under a loan or specified in a purchase agreement. Loan service charges shall be collected at the time of disbursement except for any prepayment made pursuant to paragraph (b) of this section. An additional service charge shall be paid on any additional quantity delivered to and accepted by CCC under a loan. Service charges on a purchase agreement shall be collected at the time the purchase agreement form is completed.

(a) Service charges shall be computed at the rates shown in the following table:

Method of price support	Rate (per 100 pounds net)	Minimum charge
	Cents	
Farm-storage loan	5	$3.00
Purchase agreement	2½	1.50

(b) State committees are authorized to require prepayment of $3.00 of the service charge on a loan at the time of application.

(c) No refund of authorized service charges will be made.

§ 434.1011 Set-offs.

(a) If any installment or installments on any loan made available by CCC on farm-storage facilities or mobile drying equipment are payable, under the provisions of the note evidencing such loan, out of any amount due the producer under the program provided for in this subpart, the producer must designate CCC or the lending agency holding such note as payee of such amount to the extent of such installments, but not to exceed that portion of the amount remaining after deduction of service charges and amounts due prior lienholders.

(b) If the producer is indebted to CCC, or if the producer is indebted to any other agency of the United States, and such indebtedness is listed on the county debt record, amounts due the producer under the program provided for in this subpart, after deduction of amounts payable on farm-storage facilities or mobile drying equipment and other amounts provided in paragraph (a) of this section, shall be applied, as provided in the Secretary's setoff regulations, 7 CFR Part 13 (23 F.R. 3757), to such indebtedness.

(c) Compliance with the provisions of this section shall not deprive the producer of any right he might otherwise have to contest the justness of the indebtedness involved in the setoff action

either by administrative appeal or by legal action.

§ 434.1012 Determination of quantity.

(a) The quantity of honey for loan purposes shall be computed on the basis of 11 pounds for each gallon of rated capacity of the containers.

(b) At the time of acquisition by CCC of honey under loan or purchase agreement the quantity shall be determined by or under the direction of the State committee. The quantity determination of honey acquired in 5-gallon cans shall be the number of cans times the average net weight of honey per can rounded to the next lowest whole pound or 60 pounds per can whichever is lower. The quantity determination of honey acquired in larger containers shall be the actual net weight of the honey.

§ 434.1013 Determination of grade and color.

(a) When application for a loan is made the county office shall draw samples of the honey and transmit them prepaid to the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, for grade and color determination. The quantity of honey drawn for samples shall be furnished by the producer at no cost to CCC. At the time the samples are drawn the county office shall collect the inspection fee for the account of the Processed Products Standardization and Inspection Branch.

(b) When honey is delivered to CCC the samples for grade and color determination shall be drawn by representatives of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, and CCC will pay the fees for sampling and inspection. The weight of the honey delivered to CCC, determined in accordance with § 434.1012 shall include the quantity of honey drawn for samples.

(c) Table honey shall be segregated into lots by color to conform with the categories outlined in § 434.1025 and the color variations shall be within the tolerance as set forth in the United States Standards for Grades of Extracted Honey, effective April 16, 1951. If a lot of honey is not segregated so that it can be certified in accordance with the foregoing, the loan, settlement for the loan, or purchase under purchase agreement, shall be made on the basis of the darkest color shown on the inspection certificate.

(d) Table honey shall be segregated from nontable honey. The loan, settlement for the loan, or purchase under purchase agreement, shall be made on the basis of nontable honey if the honey is not segregated so that it can be classified as table honey in accordance with § 434.1025.

(e) In the case of blends of table and nontable honeys, the loan, settlement for the loan, or purchase under purchase agreement, shall be made on the basis of nontable honey. If any blends of honey contain ineligible honey the lot as a whole shall be considered ineligible for a loan, or for delivery under a purchase agreement.

§ 434.1014 Maturity of loans.

Unless demand is made earlier, loans shall mature on April 30, 1960, in all States.

§ 434.1015 Interest rate.

Loans shall bear interest at the rate of 3½ per centum per annum from the date of disbursement of the loan: *Provided,* That if there is a default in satisfaction of the loan the amount remaining due on the date of such default, accrued interest, and any costs incurred by CCC, shall bear interest thereafter at the rate of 6 per centum per annum: *Provided, further,* That if the producer has made a fraudulent representation in the loan documents or in obtaining the loan, the principal amount of the loan and any costs incurred by CCC shall bear interest from the date of disbursement at the rate of 6 per centum per annum.

§ 434.1016 Transfer of producer's interest.

(a) *Loans.* The producer shall not transfer either his remaining interest in nor his right to redeem honey pledged as security for a loan, nor shall anyone acquire such interest or right. A producer who wishes to liquidate all or part of his loan by contracting for the sale of the honey, must obtain written prior approval of the county office on Commodity Loan Form 12 to remove the honey from storage when the proceeds of the sale are needed to repay all or any part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the county office.

(b) *Purchase agreements.* The producer may not assign his interest in a purchase agreement.

§ 434.1017 Safeguarding the honey.

The producer obtaining a loan is obligated to maintain the storage structure in good repair and to keep the mortgaged honey in storage and in good condition until the loan is liquidated.

§ 434.1018 Insurance.

CCC will not require the producer to insure the honey placed under loan; however, if the producer insures such honey and idemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the producer's equity in the honey involved in the loss.

§ 434.1019 Loss or damage to honey.

If the honey is going out of condition or is in danger of going out of condition the producer shall notify the county office. The producer is responsible for any loss in quantity or quality of the honey placed under loan. Notwithstanding the foregoing, physical loss or damage to honey occurring after disbursement of the loan will be assumed by CCC to the extent of the settlement value at the time of destruction of the quantity destroyed, or in an amount equivalent to the extent of the damage as determined by CCC, less any insurance proceeds to which CCC may be entitled and the salvage value: *Provided,* The producer establishes to the satisfaction of CCC each of the following conditions: (a) The physical loss or damage occurred without fault, negligence, or conversion on the part of the producer; (b) the physical loss or damage resulted solely from an external cause other than insect infestation, vermin, rodents, or other animals; (c) the producer gave the county office immediate notice confirmed in writing of such loss or damage; and (d) the producer made no fraudulent representation in the loan documents or in obtaining the loan. No physical loss or damage which occurred prior to disbursement to the producer will be assumed by CCC. Where disbursement was by sight draft or check, the date of the draft or check shall constitute the date of disbursement.

§ 434.1020 Personal liability of the producer for the honey.

The making of any fraudulant representation by the producer in the loan documents or in obtaining the loan, or the conversion or unlawful disposition of any portion of the honey by him, may render him subject to criminal prosecution under Federal law and shall render him personally liable for the amount due on the loan and for any resulting expense incurred by CCC.

§ 434.1021 Release of the honey under loan.

The producer may at any time obtain release of the honey under loan by paying to CCC the principal amount of the note, plus applicable charges and accrued interest. The county office shall arrange for the release of the chattel mortgage upon payment of the note. Partial release of the honey prior to the loan maturity date may be arranged with the county office after making payment for the quantity of the honey to be released, plus applicable charges and accrued interest. If the structure is used to house honey other than that which is collateral for a loan, all or part of such noncollateral honey may be removed without payment on the loan upon application to the county office.

§ 434.1022 Liquidation of loans and delivery under purchase agreements.

(a) *Loans.* The producer is obligated to pay off his loan on or before maturity, or to deliver the honey in accordance with instructions of the county office. The producer shall, prior to loan maturity date, give the county office written notice of his intention to deliver the honey. However, the county committee may permit the producer to pay off all or part of his loan and redeem the proportionate quantity of his honey at any time prior to delivery to CCC or removal by CCC. Only the quantity in the containers included in the lot placed under loan may be delivered. Delivery points for honey under loan shall be limited to those recommended by the State Committee and approved by the Director, Sugar Division, CSS. If the farm is sold or there is a change of tenancy before the loan maturity date the honey under loan may be delivered upon approval by the county office, or it may be delivered

before the loan maturity date for other reasons if approved by the Executive Vice President, CCC. Settlement will be made at the applicable support rate in effect at the approved point of delivery, subject to the provisions of the Producer's Note and Supplemental Loan Agreement and this subpart, based upon the quantity, floral source, color, and grade at the time of delivery as determined in accordance with §§ 434.1012(b) and 434.1013 (b), (c), (d), and (e). If honey is delivered to CCC prior to the loan maturity date upon request of the producer and with the approval of CCC, the loan settlement shall be reduced at the rate of 1/20 of a cent per pound per month or fraction thereof, from the date delivery is accomplished, or from the final date for delivery shown in the delivery instructions issued by the county office, whichever is earlier, to and including the loan maturity date. The settlement value for honey acquired by CCC which does not meet requirements with respect to grade, shall be determined at the support rate for the honey placed under loan less the estimated cost, as determined by CCC, for conditioning such honey to conform to the grade of honey described in the loan documents. The settlement value for honey acquired by CCC which does not meet requirements because of floral source, or which cannot be conditioned to meet grade requirements, shall be the actual market value, if any, of such honey as determined by CCC. The producer shall pay CCC for any deficiency in quantity, floral source, grade or color. Any payment due the producer may be made by sight draft drawn on CCC by the county office.

(b) *Handling small amounts on settlement.* To avoid administrative costs of making small payments and handling small accounts, amounts due the producer of $3.00 or less will be paid only upon his request. Deficiencies of $3.00 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(c) *Purchase agreements.* The producer who signs a purchase agreement shall not be obligated to sell any quantity of the honey to CCC. However, the quantity stated in the purchase agreement shall be the maximum quantity he may sell to CCC. If the producer who signs a purchase agreement wishes to sell the honey to CCC, he shall have a 30-day period prior to the loan maturity date during which he must notify the county office of his intention to sell. Deliveries shall not be accepted before the loan maturity date, or such earlier date as may be prescribed by the Executive Vice President, CCC. The producer may be required to retain the honey for a period of 60 days after the loan maturity date without any cost to CCC. Delivery under purchase agreements shall be made in accordance with instructions issued by the county office. Delivery points for purchase agreements shall be limited to those recommended by the State committee and approved by the Director, Sugar Division, CSS. Honey delivered under a purchase agreement must meet the requirements for eligible honey as set forth in §§ 434.1003 and 434.1013(e). Payment for eligible honey delivered to CCC under purchase agreements shall be at the applicable support rate in effect at the approved delivery point, on the basis of the quantity, floral source, color, and grade at the time of delivery as determined in accordance with §§ 434.1012(b) and 434.1013 (b), (c), (d), and (e). Such payment will be made to the producer by sight draft drawn on CCC by the county office.

§ 434.1023 Foreclosure.

If the loan (i.e., the amount of the note, interest, and charges) is not satisfied upon maturity by payment or by delivery of the honey, the holder of the note is authorized to remove the honey from storage; and also to sell, assign, transfer, and deliver the honey or documents evidencing title thereto at such time, in such manner, and upon such terms as the holder of the note may determine, at public or private sale; and the holder of the note may become the purchaser of the whole or any part of the honey. Any such disposition may similarly be affected without removing the honey from storage. If, upon maturity and nonpayment of the producer's note, CCC is the holder of the note, then at CCC's election title to the unredeemed honey securing the note shall, without a sale thereof, immediately vest in CCC. Whenever CCC acquires title to the unredeemed honey, CCC shall have no obligation to pay for any market value which such honey may have in excess of the loan indebtedness, i.e., the unpaid amount of the note plus interest and charges. Nothing herein shall preclude the making of the following payments to the producer or his personal representative only, without right of assignment to or substitution of any other party: (1) Any amount by which the settlement value of the collateral honey may exceed the principal amount of the loan, or (2) the amount by which the proceeds of the sale may exceed the loan indebtedness if the collateral honey is sold to third parties rather than CCC acquiring full title to such collateral honey. If honey removed by CCC from storage is sold at less than the amount due on the loan (excluding interest), and if the quantity, floral source, grade, or color of the honey as removed is lower than that on which the loan was computed, the producer shall pay to CCC the difference between the amount due on the loan and the higher of the sales proceeds or the settlement value of the honey removed by CCC, plus interest.

§ 434.1024 Charges not to be assumed by CCC.

CCC will not pay or assume any insurance charges, storage charges, inspection charges to determine eligibility for a loan, or any handling or processing charges necessary to make the honey meet the grade requirements.

§ 434.1025 Support rates.

Loans will be made, and honey delivered under purchase agreements shall be purchased, at the support rates set forth below:

For states of Montana, Wyoming, Colorado, New Mexico and states west thereof:

	Rate (cents per pound)
1. White and lighter table honey	8.7
2. Extra Light Amber table honey	7.7
3. Light Amber table honey	6.8
4. Other table honey and nontable honey	6.3

For all states east of Montana, Wyoming, Colorado and New Mexico:

	Rate (cents per pound)
1. White and lighter table honey	9.6
2. Extra Light Amber table honey	8.6
3. Light Amber table honey	7.7
4. Other table honey and nontable honey	7.2

(a) "Table honey" means honey having the predominant flavor of a floral source which can be readily marketed for table use in all parts of the country. Such sources include Alfalfa, Bird's-foot trefoil, Blackberry, Brazil Brush, Catsclaw, Clover, Cotton, Fireweed, Gallberry, Huajillo, Lima Bean, Mesquite, Orange, Raspberry, Sage, Saw Palmetto, Sourwood, Star Thistle, Sweetclover, Tupelo, Vetch, Western Wild Buckwheat, Wild Alfalfa, and similar mild-flavored honeys, or blends of mild-flavored honeys, as determined by the Director, Sugar Division, CSS.

(b) "Nontable honey" means honey having a predominant flavor of limited national acceptability for table use but considered to be suitable for table use in areas in which it is produced. Such honeys include those with a predominant flavor of Aster, Avocado, Buckwheat (except Western Wild Buckwheat), Cabbage Palmetto, Dandelion, Eucalyptus, Goldenrod, Heartease (Smartweed), Horsemint, Mangrove, Mansanita, Mint, Partridge Pea, Rattan Vine, Safflower, Salt Cedar (Tamarix Gallica), Spanish Needle, Spikeweed, Ti-ti, Toyon (Christmas Berry), Tulip-Popular, Wild Cherry, and similarly-flavored honeys, or blends of such honeys, as determined by the Director, Sugar Division, CSS.

§ 434.1026 CSS commodity offices.

The CSS commodity offices and the areas served by them are:

Evanston, Illinois, 2201 Howard Street: Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

Dallas 1, Texas, 500 South Ervay Street: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas.

Kansas City 41, Missouri, 560 Westport Road: Colorado, Kansas, Missouri, Nebraska, Wyoming.

Minneapolis 8, Minnesota, 1006 West Lake Street: Minnesota, Montana, North Dakota, South Dakota, Wisconsin.

Portland 5, Oregon, 1218 SW. Washington Street: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, Alaska.

Issued this 23d day of April 1959.

[SEAL] CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-3531; Filed, Apr. 27, 1959; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—United States Standards For Beet Greens [1]

On February 5, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 851) regarding proposed amendments to United States Standards for Beet Greens.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Beet Greens are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.).

GENERAL

GRADES

UNCLASSIFIED

APPLICATION OF TOLERANCES

DEFINITIONS

AUTHORITY: §§ 51.2860 to 51.2872 issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

GENERAL

§ 51.2860 General.

The standards contained in this subpart are applicable to beet greens consisting of either plants (with or without attached roots) or cut leaves, but they shall not be applicable to a mixture of plants and cut leaves in the same container. The standards apply only to the common red-rooted table varieties of beets (Beta vulgaris) but not to mangel wurzel varieties primarily grown for stock feed, or to sugar beets (Beta vulgaris var. saccharifera).

GRADES

§ 51.2861 U.S. No. 1.

"U.S. No. 1" consists of beet greens of similar varietal characteristics which are fresh, fairly clean, fairly tender, well trimmed and which are free from decay, weeds, grass, other kinds of leaves or other foreign material, and from damage caused by discoloration, freezing, disease, insects or mechanical or other means.

(a) In the case of beet greens with roots attached, the roots shall be free from damage by any cause, and the maximum diameter of the root shall not be larger than five-eighths inch.

(b) The leaf blades of beet greens shall not be longer than 6½ inches.

(c) In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted (see §§ 51.2863 and 51.2864):

(1) *For over-size roots.* 5 percent for beet greens with roots in any lot which are larger than five-eighths inch in diameter;

(2) *For over-size leaf blades.* 3 percent for beet leaves in any lot which are longer than 6½ inches;

(3) *For mixtures of whole plants, clusters and leaves.* Not more than 10 percent of the beet greens may consist of cut leaves in a lot consisting of plants, and not more than 3 percent of the beet greens may consist of whole plants and clusters in a lot consisting of cut leaves;

(4) *For leaves other than beet leaves, weeds, grass or other foreign material.* Not more than 3 pieces in a 1 pound sample; and,

(5) *For other defects.* Not more than a total of 10 percent, but not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing serious damage, including therein not more than 1 percent for decay.

UNCLASSIFIED

§ 51.2862 Unclassified.

"Unclassified" consists of beet greens which have not been classified in accordance with the foregoing grade. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

APPLICATION OF TOLERANCES

§ 51.2863 Application of tolerances.

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(1) For a tolerance of 10 percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified; and,

(2) For a tolerance of less than 10 percent, individual packages in any lot may contain not more than double the tolerance specified.

§ 51.2864 Basis for calculating percentages.

Percentages shall be calculated on the basis of weight or an equivalent basis, except that the amount of leaves other than beet leaves, blades of grass, weeds or parts of weeds or other foreign material shall be calculated on the basis of count, using 1 pound of beet greens as the sample. In inspecting the sample, the unit shall be the plant or leaf exactly as it occurs in the sample. A plant or portion of plant shall not be broken to remove the defective portion, but shall be considered as a unit.

DEFINITIONS

§ 51.2865 Similar varietal characteristics.

"Similar varietal characteristics" means that the beet greens in any container are similar in color and type.

§ 51.2866 Fresh.

"Fresh" means that the beet greens are not more than slightly wilted.

§ 51.2867 Fairly clean.

"Fairly clean" means that the individual leaf or plant is reasonably free from dirt or other foreign material and that the general appearance of the beet greens in the container is not materially affected.

§ 51.2868 Fairly tender.

"Fairly tender" means that the beet greens are not tough or excessively fibrous.

§ 51.2869 Well trimmed.

"Well trimmed", in the case of cut leaf beet greens, means that the length of leaf stem or petiole is not more than the length of the leaf blade and that the overall length of the leaf including blade and petiole is not more than 11 inches.

§ 51.2870 Damage.

"Damage" means any defect which materially affects the appearance, or the edible or shipping quality of the individual beet leaf or plant, or the general appearance of the beet greens in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Discoloration when the appearance of the individual leaf or plant is materially affected by yellowing, spotting or any other type of discoloration, except that leaves showing a reddish color, often caused by cold weather, shall not be considered as damaged by discoloration. Plants which have small dried, withered or slightly yellowed leaves at the base of the plant shall not be considered as damaged by discoloration unless the general appearance of the plant or of the plants in the container is materially affected; and,

(b) Mechanical damage when the individual leaf is badly crushed, torn or broken.

§ 51.2871 Diameter.

"Diameter" means the greatest dimension of the root measured at right angles to a line from the center of the crown to the base of the root.

§ 51.2872 Serious damage.

"Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the individual beet leaf or plant, or the general appearance of the beet greens in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maxi-

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

mum allowed for any one defect, shall be considered as serious damage:

(a) Discoloration when the individual leaf or plant is badly discolored;

(b) Insects when the individual leaf or plant is noticeably infested or when it is seriously damaged by them; and,

(c) Decay.

The United States Standards for Beet Greens contained in this subpart shall become effective June 1, 1959, and will thereupon supersede the United States Standards for Beet Greens which have been in effect since November 19, 1956. (7 CFR §§ 51.2860 to 51.2872.)

Dated: April 23, 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 59-3551; Filed, Apr. 27, 1959; 8:48 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 904—MILK IN GREATER BOSTON, MASS., MARKETING AREA

PART 934—MILK IN MERRIMACK VALLEY, MASS., MARKETING AREA

PART 996—MILK IN SPRINGFIELD, MASS., MARKETING AREA

PART 999—MILK IN WORCESTER, MASS., MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the orders regulating the handling of milk in the Greater Boston, Massachusetts, marketing area (7 CFR Part 904), the Merrimack Valley, Massachusetts, marketing area (7 CFR Part 934), the Springfield, Massachusetts, marketing area (7 CFR Part 996), and the Worcester, Massachusetts, marketing area (7 CFR Part 999), it is hereby found and determined that:

(a) For the months of May and June 1959 all of the provisions of §§ 904.48(b), 934.48(b), 996.48(b) and 999.48(b), of the respective orders, except the words "The supply-demand adjustment factor shall be" and the figure "0.90" as they appear in subparagraph (4) do not tend to effectuate the declared policy of the Act.

The mechanics of the supply-demand adjuster, as set forth in 48(b) of the respective orders is intended to reflect in the current month's New England basic Class I price computation, the current regional supply-demand situation based on experience in the second and third preceding months and is measured by conditions existing in the Boston, Merrimack Valley, Springfield and Worcester markets. With the institution of Federal regulation in the Southeastern New England and Connecticut markets plants have shifted out of the four previously regulated markets to the newly regulated markets and there has been some shifting of Class I sales among markets. These developments are resulting in an apparent shortening of the regional supply as measured by the present mechanics of the supply-demand adjuster for the Boston, Merrimack Valley, Springfield and Worcester markets. In fact, however, there has been no substantial change in the actual supply-demand situation for the region. Failure to suspend that part of the provisions quoted above, therefore, may result in Class I prices for the months of May, and June, 1959 in the six New England Federal order markets higher than would otherwise prevail. Higher prices than those which would result from this action would be higher than those necessary to bring forth an adequate supply of pure and wholesome milk, would not be compatible with the intended seasonality of pricing, would be higher than justified on the basis of the actual regional supply-demand situation and would be out of appropriate alignment with prices in the New York market.

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in each of the respective marketing areas.

Therefore, good cause exists for making this order effective on issuance.

It is therefore ordered, That the aforesaid provisions of the aforesaid orders are hereby suspended effective upon issuance for the months of May and June, 1959.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 23d day of April 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-3576; Filed, Apr. 27, 1959; 8:46 a.m.]

PART 972—MILK IN TRI-STATE MARKETING AREA

Order Amending Order

§ 972.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tri-State marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to butterfat and skim milk pursuant to § 972.71.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1959.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued March 10, 1959, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued April 10, 1959. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective May 1, 1959, and that it would be contrary to the public interest to delay the effective date

of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8e(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least three-fourths of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Tri-State marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 972.5 and substitute the following:

§ 972.5 Tri-State marketing area.

"Tri-State marketing area" (hereinafter called the marketing area) means all that territory in the States of Ohio, West Virginia, and Kentucky, lying within the districts described in paragraphs (a), (b), (c) and (d) of this section, including all incorporated municipalities, military reservations, facilities, and installations, and State institutions wholly or partially within the defined districts.

(a) "Pikeville-Paintsville district" of the marketing area means the territory within the counties of Martin, Magoffin, Floyd, Johnson, and Pike, all in Kentucky.

(b) "Huntington district" of the marketing area means the territory within the counties of Boyd, Greenup, and Lawrence, in Kentucky; Lawrence County in Ohio; and the counties of Cabell and Wayne, in West Virginia.

(c) "Gallipolis-Scioto district" of the marketing area means the territory within the counties of Gallia, Meigs, Scioto, and Jackson, in Ohio; the townships of Beaver, Camp Creek, Jackson, Marion, Newton, Pee Pee, Scioto, Seal, and Union in Pike County, Ohio; Mason County in West Virginia; and Magisterial Districts 2, 3 and 8 in Lewis County, Kentucky.

(d) "Athens district" of the marketing area means the territory within Athens County, Ohio; the townships of Belpre, Marietta, Muskingum, Adams, and Waterford, in Washington County, Ohio; and Lubeck, Parkersburg, Tygart, and Williams Magisterial Districts in Wood County, West Virginia.

2. Delete §§ 972.9, 972.10, and 972.11 and substitute the following:

§ 972.9 District designation of fluid milk plants in the marketing area.

A fluid milk plant in the marketing area is a "Pikeville-Paintsville district plant", a "Huntington district plant", a "Gallipolis-Scioto district plant" or an "Athens district plant" depending on whether it is located in the Pikeville-Paintsville district, the Huntington district, the Gallipolis-Scioto district, or the Athens district, respectively.

§ 972.10 District designation of fluid milk plants outside the marketing area.

A fluid milk plant located outside the marketing area is a district plant for the district in which the nearest place listed pursuant to § 972.48 is located, or is adjacent to.

§ 972.11 District designation of supply plants.

A supply plant located in the marketing area is a district plant for the district in which it is located, and a supply plant located outside the marketing area is a district plant for the district in which the nearest place listed pursuant to § 972.48 is located, or is adjacent to.

3a. In § 972.25 delete the language preceding paragraph (a) and substitute the following:

§ 972.25 Reports of receipts and utilization.

On or before the 5th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for each of the plants with respect to which he is a handler for such month, and for each accounting period within the month, in the detail and on the forms prescribed by the market administrator as follows:

b. In § 972.25 insert a new paragraph (d) as follows:

(d) Each handler who submits reports on the basis of accounting periods of less than a month shall submit a summary report of the same information for the entire month.

4. Delete § 972.35 and substitute the following:

§ 972.35 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 972.25 and compute the total pounds of skim milk and butterfat respectively, in Class I milk, Class II milk, and Class III milk at all of the plants of such handler: *Provided,* That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

5. Insert a new § 972.37 as follows:

§ 972.37 Accounting periods.

A handler may account for receipts of milk, utilization and classification of milk at his plants for periods within a month in the same manner as for a month, if he provides to the market administrator in writing not later than 24 hours prior to the end of an accounting period notification of his intention to use such accounting period.

§ 972.41 [Amendment]

6. In § 972.41 delete paragraph (a) and substitute the following:

(a) Add the following amounts for the months indicated:

	February, March, and August	April, May, June, and July	September, October, November, December, and January
Pikeville-Paintsville district plants	$1.65	$1.20	$2 10
Huntington district plants	1.55	1.10	2 00
Gallipolis-Scioto district plants	1.45	1.00	1 90
Athens district plants	1.35	.90	1 80

Provided, That beginning with the month of March 1960 add the following amounts for the months indicated:

	March, April, May, June, and July	August, September, October, November, December, January, and February
Pikeville-Paintsville district plants	$1.30	$1 97
Huntington district plants	1.20	1 87
Gallipolis-Scioto district plants	1.10	1 77
Athens district plants	1.00	1 67

7. Delete § 972.45 and substitute the following:

§ 972.45 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

8. Delete § 972.48 and substitute therefor a new § 972.48 as follows:

§ 972.48 Location adjustment credits to handlers.

The price for Class I milk at a fluid milk plant or supply plant located outside the marketing area and more than 45 miles from the nearest of the following listed places, shall be, regardless of point of sale within or outside the marketing area, the same as the price for Class I milk (§ 972.41) for the district of the marketing area in which such nearest listed place is located or is adjacent to, less a location adjustment computed as follows: 2 cents per hundredweight for each 10 miles, or major fraction thereof, up to 100 miles, and 1.5 cents per hundredweight for each 10

miles, or major fraction thereof, in excess of 100 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from such fluid milk plant to such nearest listed place:

City Hall, Huntington, W. Va.
City Hall, Ashland, Ky.
City Hall, Portsmouth, Ohio.
City Hall, Jackson, Ohio.
City Hall, Athens, Ohio.
City Hall, Marietta, Ohio.
City Hall, Gallipolis, Ohio.
City Hall, Pikeville, Ky.
City Hall, Paintsville, Ky.
City Hall, Williamson, W. Va.

9. Delete § 972.51 and substitute the following:

§ 972.51 Plants subject to other orders.

A plant which during the month disposes of less Class I milk on routes in the marketing area under this part than in a marketing area where the handling of milk is regulated under another Federal milk order and which would be subject to the price and pooling requirements pursuant to the other order if not subject to the price and pooling requirements pursuant to this part, shall be a nonfluid milk plant unless the Secretary determines it to be a fluid milk plant or supply plant pursuant to this part. Any such nonfluid milk plant shall submit such reports as the market administrator may request with respect to milk received, and utilization and disposal thereof.

§ 972.71 [Amendment]

10. In § 972.71 change the period at the end of the section to a colon and add the following proviso: *"And provided further,* That if a handler uses more than one accounting period within a month, the rate of payment with respect to the quantities of milk specified in this section shall be the monthly rate multiplied by the number of accounting periods within the month or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting periods."

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Issued at Washington, D.C., this 23d day of April, 1959, to be effective on and after the 1st day of May 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 59-3580; Filed, Apr. 27, 1959; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7324]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

International Homes, Inc., et al.

Subpart—*Misrepresenting oneself and goods*—Goods: § 13.1647 *Guarantees;* § 13.1675 *Law or legal requirements;* § 13.1740 *Scientific or other relevant facts;* § 13.1760 *Terms and conditions;* [*Misrepresenting oneself and goods*]—Prices: § 13.1778 *Additional costs unmentioned;* § 13.1817 *Reductions for prospect referrals.* Subpart—*Securing signatures wrongfully:* § 13.2175 *Securing signatures wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, International Homes, Inc., et al., Lyndhurst, N.J., Docket 7324, April 2, 1959]

In the Matter of International Homes, Inc., a Corporation, and Harold Schreier, Individually and as an Officer of Said Corporation, and Alton Waldstein, Individually

This proceeding was heard by a hearing examiner on the complaint of the Commission charging Lyndhurst, N.J., distributors of house siding material with representing falsely, principally by sales talks, that homes of purchasers of their siding would be used as demonstration homes to sell the products and the commission paid for such use would cover the cost of the siding; that purchasers would receive commissions on other sales made in their vicinity; that the cash price shown on contracts was the total price to be paid; that a blank promissory note, among other papers required to be signed, was for the purpose of credit checking only; that signing of the contract was required by law and that the attached note was a formality; that the siding and installation were "Guaranteed for 25 Years"; and that a cash bonus would be given the purchaser when the installation was completed.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on April 2 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents International Homes, Inc., a corporation, and its officers, and Harold Schreier, individually and as an officer of said corporate respondent, and Alton Waldstein, individually, and respondents' agents, representatives and employees, directly or through any corporate of other device, in connection with the offering for sale, sale and distribution of house or building siding material, or any similar product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that:

1. The homes of purchasers of their siding material will be used as model or demonstration houses or buildings to advertise or sell the aforesaid products.

2. Commissions will be paid the purchasers of such products, or that commissions paid to the owners of homes who purchase respondents' products will be sufficient to cover the cost of respondents' products and their installation.

3. Purchasers of respondents' products will receive commissions or fees on other sales made in their vicinity or area.

4. The cash price shown on contracts for the sale of respondents' products is the total to be paid for such products.

5. Documents required to be signed by purchasers of respondents' products are for credit checking purposes only, when in fact such documents include promissory notes or other evidences of debt.

6. Respondents' siding and the installation thereof are "guaranteed" unless the terms of such "guarantee" are fully set forth.

7. Purchasers of respondents' siding will be paid a cash bonus or payment unless it is revealed that such payment is included in the price charged for such product.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: April 2, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3534; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket 7331]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Jack Wiederhorn et al.

Subpart—*Advertising falsely or misleadingly:* § 13.285 *Value.* Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Jack Wiederhorn & Son, New York, N.Y., Docket 7331, April 2, 1959]

In the Matter of Jack Wiederhorn and Edward Wiederhorn as Individuals and as Copartners Trading as Jack Wiederhorn & Son

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a New York City furrier with violating the Fur Products Labeling Act by failing to set forth in invoices the term "Dyed Mouton-processed Lamb" and required item numbers, and by advertising in letters to customers representing the "wholesale market value" of fur products to be of certain designated amounts without maintaining adequate records as a basis for such pricing claims.

Following acceptance of an agreement for a consent order, the hearing examiner made his initial decision and

order to cease and desist which became on April 2 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Jack Wiederhorn and Edward Wiederhorn as individuals and as copartners, trading as Jack Wiederhorn & Son, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, manufacture for introduction, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur products as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoice;

(6) The name of the country of origin of any imported furs contained in a fur product;

(7) The item number or mark assigned to a fur product.

B. Failing to set forth the term "Dyed Mouton processed Lamb" in the manner required by Rule 9 of the regulations.

2. Making price claims and representations in advertisements concerning wholesale market values of fur products unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: April 2, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3535; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket 7278]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Empire Amerex Products Corp.

Subpart—*Concealing, obliterating, or removing law-required and informative marking:* § 13.515 *Foreign source.* Subpart—*Furnishing means and instrumentalities of misrepresentation or deception:* § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1056 *Preticketing merchandise misleadingly.* Subpart—*Misbranding or mislabeling:* § 13.1185 *Composition;* § 13.1280 *Price;* § 13.1321 *Seals, emblems, or awards;* § 13.1325 *Source or origin:* Maker or seller, etc.; place: *Foreign, in general.* Subpart—*Misrepresenting oneself and goods*—Prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1811 *Fictitious preticketing.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1900 *Source or origin:* Foreign in general.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Empire Amerex Products Corp., Chicago, Ill., Docket 7278, April 2, 1959]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Chicago distributor of a variety of products including steak knives, carving sets, deep fryers, electric skillets, fans, and stainless steel flatware, with misrepresenting retail prices by printing fictitious and exaggerated amounts on attached labels and on containers of some of its products; misrepresenting the country of origin of cutlery products by so assembling imported tines that the word "Japan" stamped on the end was entirely covered, and packaging them for resale along with knives having blades made in England, in cartons bearing the words "Made in Sheffield, England"; packaging products equipped with Westinghouse parts in cartons bearing the words "Westinghouse Thermostat" so as to imply association of the entire product with the Westinghouse Company; boxing products not approved in cartons printed with the "Seal of Approval from Underwriter's Laboratories"; and printing the words "IN 24 KT. GOLD PLATED" deceptively on boxes containing certain cutlery.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on April 2 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondent Empire Amerex Products Corp., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of cutlery and carving sets, electric deep fryers, electric skillets, fans, or any other product, do forthwith cease and desist from:

1. Representing, directly or indirectly, by preticketing, or in any other manner, that any amount is the usual and regular retail price of a product when such amount is in excess of the price at which the product is usually and regularly sold at retail;

2. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail price of such merchandise;

3. Offering for sale or selling any product, the whole or any substantial part of which was made in Japan, or in any other foreign country, without clearly disclosing the foreign origin of said product and of such part;

4. Offering for sale or selling cutlery containing tines or any other part made in Japan, or in any country other than England, combined with other parts made in England which bear the legend "Made in Sheffield, England" or any other legend indicative of English origin without clearly disclosing the country of origin of the tines or other part;

5. Representing, directly or indirectly, in any manner, on the containers in which cutlery or other products, made in part in Japan, or any country other than England, are shipped or distributed, that such products are of English origin;

6. Using the name of any company in connection with any product which has not been manufactured in its entirety by said company; or representing, directly or indirectly, that any product not manufactured in its entirety by a specified company was so manufactured, provided, however, that this prohibition shall not be construed as preventing a truthful statement that a part of a product has been manufactured by a specific company when such part is clearly and conspicuously identified;

7. Using the seal of Underwriters Laboratories in connection with any product that has not been approved in its entirety by Underwriters Laboratories; or representing, directly or indirectly, that any product not approved in its entirety by Underwriters Laboratories has been so approved, provided, however, that this prohibition shall not be construed as preventing a truthful statement that a part of a product has been so approved when such part is clearly and conspicuously identified;

8. Representing, directly or indirectly, that a product, or any part thereof, is

gold plated, unless it has a surface plating of gold or gold alloy applied by a mechanical process, provided, however, that a product, or part thereof, on which there has been affixed by an electrolytic process a coating of gold, or gold alloy of not less than 10 karat fineness, the minimum thickness of which is equivalent to seven one-millionths of an inch of fine gold, may be marked or described as gold electroplate or gold electroplated.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondent Empire Amerex Products Corp., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: April 2, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3536; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket 7316]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Dresden Mills, Inc., et al.

Subpart—*Misbranding or mislabeling:* § 13.1190 *Composition:* Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68–68(c)) [Cease and desist order, Dresden Mills, Inc., et al., Dresden, Ohio, Docket 7316, Apr. 1, 1959]

In the Matter of Dresden Mills, Inc., a Corporation, and Harry A. Groban, and Nathan Groban, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Dresden, Ohio, manufacturer with violating the Wool Products Labeling Act by tagging as "all reprocessed wool", bolts of fabric which contained a substantial quantity of non-wool fibers, and by failing to label certain wool products as required.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on April 1 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents, Dresden Mills, Inc., a corporation, and its officers, and Harry A. Groban and Nathan Groban, individually and as officers of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction, into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 of "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool products, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products, of any non-fibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That respondents, Dresden Mills, Inc., a corporation, and its officers, and Harry A. Groban and Nathan Groban, individually and as officers of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of textile fabrics, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers of which their products are composed or the percentages thereof in invoices, shipping memoranda or in any other manner.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: April 1, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3537; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket 7313]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

American Foam Latex Corporation et al.

Subpart—*Furnishing means and instrumentalities of misrepresentation or deception:* § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1056 *Preticketing merchandise misleadingly.* Subpart—*Misbranding or mislabeling:* § 13.1185 *Composition;* § 13.1280 *Price.* Subpart—*Misrpresenting oneself and goods*—prices: § 13.1805 *Exaggrated as regular and customary;* § 13.1811 *Fictitious preticketing.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The American Foam Latex Corporation et al., Pittsburgh, Pa., Docket 7313, Apr. 2, 1959]

In the Matter of The American Foam Latex Corporation, a Corporation, Leo Unger, Murray B. Pfeffer, Hugo Unger, and Elvira Pfeffer, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging Pittsburgh manufacturers of pillows, stuffed dolls, plastic bags, tablecloths, and bedspreads, ironing board pad and cover sets, ironing board covers, and beach pads, with misrepresenting the composition and prices of their products by affixing to them the words "all new material consisting of shredded latex foam rubber" when they were made of other materials, and by attaching to them exaggerated fictitious amounts as the usual retail prices.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on April 2 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents, The American Foam Latex Corporation, a corporation, and its officers, and Leo Unger, Murray B. Pfeffer, Hugo Unger and Elvira Pfeffer, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, or selling of bed pillows, sofa toss pillows, stuffed plush dolls, stuffed regular dolls, plastic refrigerator bags, plastic table cloths, plastic bedspreads, ironing board pad and cover sets, ironing board covers, beach pads or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission, do forthwith cease and desist from:

1. Misrepresenting their products with respect to the character and condition of the materials used in said products;

2. Representing by preticketing or in any other manner that certain amounts are the usual and regular retail prices for their products when such amounts are in excess of the prices at which their

products are usually and regularly sold at retail;

3. Placing in the hands of retailers and dealers a means and instrumentality by and through which they may deceive and mislead the purchasing public, concerning merchandise in the respects set out in Paragraphs 1 and 2 above.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the above-named respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: April 2, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3538; Filed, Apr. 27, 1959; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12591; FCC 59-387]

PART 3—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Stations; Medford, Oregon

1. The Commission has before it for consideration its Notice of Proposed Rule Making, released September 8, 1958 (FCC 58-843) in response to a petition filed by TOT Industries, Inc., prospective applicant for a new television broadcast station at Medford, Oregon, proposing to assign Channel 10 plus to Medford.

2. No comments were filed in opposition to the proposal. Comments were received from petitioner urging that the assignment of Channel 10 to Medford is urgently needed to permit establishment of competitive television service in this important and growing area. Petitioner states that Medford, the largest city in southern Oregon with a population of 17,305 in 1950, is now dependent upon Station KBES-TV, operating on Channel 5 at Medford, for service, and that a second VHF assignment would provide Medford with a second local facility which would provide city grade service to Medford and nearby Ashland, whose 1950 population totaled 7,739 people, and excellent service to the surrounding rural areas. Petitioner states that the proposed assignment conforms with all requirements of the rules and that it intends to apply for use of the channel immediately upon its becoming available.

3. The Commission is of the view that the subject proposal would serve the public interest and should be adopted. It will permit the establishment of a second fully competitive television service in the Medford area.

4. Authority for the adoption of the amendment herein is contained in section 4(i), 301, 303 (c), (d), (f) and (r) and 307(b) of the Communications Act of 1934, as amended.

5. In view of the foregoing, *It is ordered,* That effective June 4, 1959, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations is amended, insofar as the community named is concerned, as follows:

(a) Amend the entry under the State of Oregon, as follows:

City	*Channel No.*
Medford	5, 10+

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 301, 303, 48 Stat. 1081, 1082; 47 U.S.C. 301, 303)

Adopted: April 22, 1959.

Released: April 23, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3561; Filed, Apr. 27, 1959; 8:45 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 68]

ROUGH RICE, BROWN RICE, AND MILLED RICE

U.S. Standards

Notice is hereby given that the U.S. Department of Agriculture is considering amendments to the United States Standards for Rough Rice (7 CFR 68.201 et seq.), for Brown Rice (7 CFR 68.251 et seq.), and for Milled Rice (7 CFR 68.301 et seq.) pursuant to the authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.).

The amendments as hereinafter set forth would:

(1) Change the definition for contrasting classes and heat-damaged kernels in each of the standards for rough rice, brown rice, and milled rice;

(2) Provide for a method of determining head rice and total milled rice in the rough rice and brown rice standards, and for a method of determining broken kernels in the milled rice standards;

(3) Provide for the use of sizing plates in classifying second head and screenings milled rice;

(4) Provide for a class "Granulated Brewers milled rice";

(5) Provide for the use of the sizing plates to determine the numerical grade requirements for broken kernels in the table of grade requirements for all classes of milled rice except Second Head, Screenings, Brewers, and Granulated Brewers milled rice;

(6) Drop the numerical grade requirements for broken kernels in the table of grade requirements for the classes of Second Head and Screenings milled rice;

(7) Provide for somewhat higher limits of chalky kernels in the several numerical grades of the class Pearl brown rice than are permitted in the other classes, and for limits of parboiled rice in the several numerical grades for all classes of brown rice;

(8) Provide for limits of parboiled milled rice and unpolished milled rice in the several numerical grades for the classes of milled rice based on variety and also the classes Second Head milled rice and Screenings milled rice.

A. It is proposed to amend the United States Standards for Rough Rice as follows:

1. Section 68.201: Change paragraphs (d) and (h) to read, respectively:

(d) *Contrasting classes.* Contrasting classes shall be whole and broken kernels of other classes of rice than the class designated, in which the size or length of the kernels before cooking, or the shape of the kernels either before or after cooking, differ distinctly from the characteristics of the kernels of the class designated.

* * * * *

(h) *Heat-damaged and moldy kernels.* Heat-damaged and moldy kernels shall be kernels and pieces of kernels of rice which are materially discolored and damaged by heat or mold.

2. Section 68.202:

a. In paragraph (a) insert "and moldy" immediately after heat-damaged.

b. Change paragraph (d) and add a new paragraph (e) to read, respectively:

(d) *Determination of milling yield.* The determination of milling yield of rough rice shall be made with equipment and by methods prescribed by the United States Department of Agriculture. The milling yield shall be stated in terms of whole and half percents. A fraction of a percent when equal to or greater than one-half shall be stated as one-half and when less than one-half shall be disregarded.

(e) *Method of determining head rice and total milled rice.* Head rice and total milled rice shall be determined by the use of sizing plates in accordance with the method prescribed by the United States Department of Agriculture or by any device and method which gives equivalent results.

3. Section 68.203: In table of grades and grade requirements under (a) change the heading "Seeds and heat-damaged kernels" to "Seeds and heat-damaged and moldy kernels" and change the subheading "Heat-damaged kernels and objectionable seeds (singly or combined)" to "Heat-damaged and moldy

kernels and objectionable seeds (singly or combined)."

B. It is proposed to amend the United States Standards for Brown Rice as follows:

1. Section 68.251: Change paragraphs (d), (i), and (m) to read, respectively:

(d) *Contrasting classes.* Contrasting classes shall be whole and broken kernels of other classes of rice than the class designated, in which the size or length of the kernels before cooking, or the shape of the kernels either before or after cooking, differ distinctly from the characteristics of the kernels of the class designated.

* * * * *

(i) *Heat-damaged and moldy kernels.* Heat-damaged and moldy kernels shall be kernels and pieces of kernels of rice which are materially discolored and damaged by heat or mold.

* * * * *

(m) *No. 7 sizing plate.* A No. 7 sizing plate shall be a laminated metal plate 0.142 inch thick with a top lamina 0.051 inch thick perforated with round holes 0.1094 (7/64) inch in diameter, which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

2. Section 68.252: Change paragraph (d) and add a new paragraph (e) to read, respectively:

(d) *Determination of milling yield.* The determination of milling yield of brown rice shall be made with equipment and methods prescribed by the United States Department of Agriculture. The milling yield shall be stated in terms of whole and half percents. A fraction of a percent when equal to or greater than one-half shall be stated as one-half and when less than one-half shall be disregarded.

(e) *Method of determining head rice and total milled rice.* Head rice and total milled rice shall be determined by the use of sizing plates in accordance with the method prescribed by the United States Department of Agriculture or by any device and method which gives equivalent results.

3. Section 68.253: Delete the table and footnotes under paragraph (a) and substitute the following:

Grade[1][2]	Maximum limits of—							
	Seeds and heat-damaged and moldy kernels			Red rice and damaged kernels (singly or combined)	Chalky kernels[3]	Broken kernels		Rice of contrasting classes[4]
	Total (singly or combined)	Heat-damaged and moldy kernels	Objectionable seeds			Total	Removed by No. 7 sizing plate	
	Number in 500 grams	*Number in 500 grams*	*Number in 500 grams*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	25	1	2	1.0	1.0	5.0	1.0	1.0
U.S. No. 2	50	2	10	2.0	3.0	10.0	2.0	2.0
U.S. No. 3	75	4	20	4.0	5.0	15.0	3.0	5.0
U.S. No. 4	100	8	35	8.0	8.0	25.0	4.0	10.0
U.S. Sample grade	U.S. Sample grade shall be brown rice which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which contains more than 14.0 percent of moisture; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which contains more than 0.1 percent of foreign material; or which contains live or dead weevils or other insects, insect webbing, or insect refuse; or which is otherwise of distinctly low quality.							

[1] Brown rice in grade U.S. No. 1 may contain not more than 1.0 percent, in grade U.S. No. 2 not more than 3.0 percent, and in grades U.S. No. 3 and U.S. No. 4 not more than 10.0 percent of milled rice.

[2] Brown rice in grades U.S. No. 1 and U.S. No. 2 may contain not more than 0.1 percent, and in grades U.S. No. 3 and U.S. No. 4 not more than 0.3 percent of parboiled rice.

[3] Brown rice in grade U.S. No. 1 of the class Pearl brown rice may contain not more than 2.0 percent, in grade U.S. No. 2 not more than 4.0 percent, in grade U.S. No. 3 not more than 6.0 percent, and in grade U.S. No. 4 not more than 8.0 percent of chalky kernels.

[4] These limits do not apply to the class Mixed brown rice.

C. It is proposed to amend the United States Standards for Milled Rice as follows:

1. Section 68.301:

a. In paragraph (b) change subparagraphs (4), (5), and (6) to read, respectively:

(4) Second Head milled rice shall be any milled rice which contains not more than 25.0 percent of whole kernels, not more than 10.0 percent of broken kernels that can be removed readily with a No. 7 sizing plate, not more than 0.2 percent of broken kernels that can be removed readily with a No. 5 sizing plate, and not more than 0.02 percent that will pass readily through a 4/64 sieve.

(5) Screenings milled rice shall be any milled rice which contains not more than 25.0 percent of whole or broken kernels which are too large to be removed readily with a No. 7 sizing plate, not more than 10.0 percent of broken kernels that can be removed readily with a No. 5 sizing plate, and not more than 0.1 percent that will pass readily through a 4/64 sieve.

(6) Brewers milled rice shall be any milled rice which contains not more than 25.0 percent of whole kernels and not more than 10.0 percent of broken kernels that will pass readily through a 2½/64 sieve, and which does not meet the requirements of the classes Second Head milled rice, Screenings milled rice, or Granulated Brewers milled rice.

b. In paragraph (b) change the number of subparagraph (7) to (8) and add a new paragraph (7) to read:

(7) Granulated Brewers milled rice shall be milled rice which has been crushed or granulated so that 95 percent or more will pass readily through a 5/64 sieve, 70.0 percent or more will pass readily through a 4/64 sieve, and not more than 15.0 percent will pass readily through a 2½/64 sieve.

c. Change paragraphs (d) and (i) to read, respectively:

(d) *Contrasting classes.* Contrasting classes shall be whole or broken kernels of other classes of rice than the class designated, in which the size or length of the kernels before cooking, or the shape of the kernels before or after cooking, differ distinctly from the characteristics of the kernels of the class designated.

* * * * *

(i) *Heat-damaged and moldy kernels.* Heat-damaged and moldy kernels shall be kernels and pieces of kernels of rice which are materially discolored and damaged by heat or mold.

d. Change paragraphs (m), (n), and (o) and add new paragraphs (p) and (q), respectively, to read:

(m) *5/64 sieve.* A 5/64 sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0781 inch in diameter which are 5/32 inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(n) *4/64 sieve.* A 4/64 sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0625 (4/64) inch in diameter which are ⅛ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(o) *2½/64 sieve.* A 2½/64 sieve shall be a metal sieve 0.0319 inch thick perforated with round roles 0.0390 (2½/64) inch in diameter which are 0.075 inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(p) *No. 5 sizing plate.* A No. 5 sizing plate shall be a laminated metal plate 0.142 inch thick, with a top lamina 0.051 inch thick perforated with round holes 0.0781 (5/64) inch in diameter which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

(q) *No. 7 sizing plate.* A No. 7 sizing plate shall be a laminated metal plate 0.142 inch thick, with a top lamina 0.051 inch thick perforated with round holes 0.1094 (7/64) inch in diameter which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

2. Section 68.302: Add a new paragraph (d) to read:

(d) *Method of determining broken kernels.* Broken kernels of various sizes shall be determined by the use of sizing plates and sieves in accordance with the method prescribed by the United States Department of Agriculture or by any device and method which gives equivalent results.

3. Section 68.303:

a. Delete the heading, table, and footnotes under paragraph (a) of this section and substitute the following:

(a) *Grades and grade requirements for all classes of milled rice, except Second Head milled rice, Screenings milled rice, Brewer's milled rice, and Granulated Brewer's milled rice (see also paragraph (f) of this section).*

Grade [1] [2]	Maximum limits of—							
	Seeds and heat-damaged and moldy kernels (singly or combined)		Red rice and damaged kernels (singly or combined)	Chalky kernels [4]	Broken kernels			Rice of contrasting classes [5]
	Total	Heat-damaged and moldy kernels and objectionable seeds (singly or combined)			Total	Removed by No. 7 sizing plate	Removed by No. 5 sizing plate	
	Number in 500 grams	*Number in 500 grams*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	2	1	0.5	1.0	4.0	0.1	0.02	1.0
U.S. No. 2	4	2	1.5	2.0	7.0	0.2	0.04	2.0
U.S. No. 3	7	5	2.0	4.0	15.0	0.8	0.06	3.0
U.S. No. 4	15	10	3.0	6.0	25.0	2.0	0.10	5.0
U.S. No. 5	30	30	[6] 6.0	10.0	35.0	3.0	0.15	10.0
U.S. No. 6	75	75	[7] 15.0	15.0	50.0	4.0	0.20	10.0
U.S. Sample grade	U.S. Sample grade shall be milled rice of any of these classes which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 6, inclusive; or which contains more than 15.0 percent of moisture; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which contains more than 0.1 percent of foreign material: or which contains live or dead weevils or other insects, insect webbing, or insect refuse; or which is otherwise of distinctly low quality.							

[1] Color and general appearance, minimum requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray, and shall be well milled. U.S. No. 3 may be light gray, and shall be reasonably well milled. U.S. No. 4 may be gray or slightly rosy, and shall be reasonably well milled. U.S. No. 5 may be dark gray or rosy, and shall be reasonably well milled. U.S. No. 6 may be dark gray or rosy, and shall be reasonably well milled.

[2] Milled rice, other than milled rice of the special grade Parboiled milled rice, may contain not more than 0.1 percent of parboiled rice in grades U.S. No. 1 and U.S. No. 2, not more than 0.2 percent in grades U.S. No. 3 and U.S. No. 4, and not more than 0.5 percent in grades U.S. No. 5 and U.S. No. 6.

[3] Milled rice, other than milled rice of the special grade Unpolished milled rice, may contain not more than 0.1 percent of unpolished milled rice in grades U.S. No. 1 and U.S. No. 2, not more than 0.2 percent in grades U.S. No. 3 and U.S. No. 4, and not more than 0.5 percent in grades U.S. No. 5 and U.S. No. 6.

[4] Milled rice in grade U.S. No. 1 of the class Pearl milled rice may contain not more than 2.0 percent, in grade U.S. No. 2 not more than 4.0 percent, in grade U.S. No. 3 not more than 6.0 percent, and in grade U.S. No. 4 not more than 8.0 percent of chalky kernels.

[5] These limits do not apply to the class Mixed milled rice.

[6] Milled rice in grade U.S. No. 5 of the special grade Unpolished milled rice may contain not more than 10 percent of Red rice and damaged kernels, either singly or combined, but in any case not more than 6 percent of damaged kernels.

[7] Milled rice in grade U.S. No. 6 may contain not more than 6.0 percent of damaged kernels.

b. Delete the table and footnotes under paragraph (b) of this section and substitute the following:

Grade [1] [2] [3]	Maximum limits of—			
	Seeds and heat-damaged and moldy kernels		Red rice and damaged kernels (singly or combined)	Chalky kernels
	Total (singly or combined)	Heat-damaged and moldy kernels and objectionable seeds (singly or combined)		
	Number in 500 grams	*Number in 500 grams*	*Percent*	*Percent*
U.S. No. 1	15	5	1.0	3.0
U.S. No. 2	20	10	2.0	5.0
U.S. No. 3	35	15	3.0	10.0
U.S. No. 4	50	25	5.0	15.0
U.S. No. 5	75	40	10.0	20.0
U.S. Sample grade	U.S. Sample grade shall be milled rice of this class which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 15.0 percent of moisture; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which contains more than 0.1 percent of foreign material; or which contains live or dead weevils or other insects, insect webbing, or insect refuse; or which is otherwise of distinctly low quality.			

[1] Color and general appearance, minimum requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray, and shall be well milled. U.S. No. 3 may be light gray, and shall be reasonably well milled. U.S. No. 4 may be gray or slightly rosy, and shall be reasonably well milled. U.S. No. 5 may be dark gray or rosy, and shall be reasonably well milled.

[2] Second Head milled rice other than the special grade Parboiled milled rice may contain not more than 0.1 percent of parboiled rice in grades U.S. No. 1 and U.S. No. 2, not more than 0.2 percent in grades U.S. No. 3 and U.S. No. 4, and not more than 0.5 percent in grade U.S. No. 5.

[3] Second Head milled rice other than Second Head milled rice of the special grade Unpolished milled rice may contain not more than 0.1 percent of unpolished rice in grades U.S. No. 1 and U.S. No. 2, not more than 0.2 percent in grades U.S. No. 3 and U.S. No. 4, and not more than 0.5 percent in the grade U.S. No. 5.

C. Delete the table and footnotes under paragraph (c) of this section and substitute the following:

Grade [1] [2] [3]	Maximum limits of—		
	Seeds		Chalky kernels
	Total	Objectionable seeds	
	Number in 500 grams	*Number in 500 grams*	*Percent*
U.S. No. 1	30	20	5.0
U.S. No. 2	75	50	8.0
U.S. No. 3	125	90	12.0
U.S. No. 4	175	140	20.0
U.S. No. 5	250	200	30.0
U.S. Sample grade	U.S. sample grade shall be milled rice of this class which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 15.0 percent of moisture; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which has a badly damaged or extremely red appearance; or which contains more than 0.1 percent of foreign material; or which contains live or dead weevils or other insects, insect webbing, or insect refuse; or which is otherwise of distinctly low quality.		

[1] Color and general appearance, minimum requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray, and shall be well milled. U.S. No. 3 may be light gray, or slightly rosy, and shall be reasonably well milled. U.S. No. 4 may be gray or rosy, and shall be reasonably well milled. U.S. No. 5 may be dark gray or very rosy, and shall be reasonably well milled.

[2] Screenings milled rice other than Screenings milled rice of the special grade Parboiled milled rice may contain not more than 0.1 percent of parboiled rice in grades U.S. No. 1 and U.S. No. 2, not more than 0.2 percent in grades U.S. No. 3 and U.S. No. 4, and not more than 0.5 percent in grade U.S. No. 5.

[3] Screenings milled rice other than Screenings milled rice of the special grade Unpolished milled rice may contain not more than 0.1 percent of unpolished rice in grades U.S. No. 1 and U.S. No. 2, not more than 0.2 percent in grades U.S. No. 3 and U.S. No. 4, and not more than 0.5 percent in grade U.S. No. 5.

d. Change the heading of paragraph (d) to read:

(d) *Grades and grade requirements for the classes Brewers milled rice and Granulated Brewers milled rice (see also paragraph (f) of this section.)*

Interested persons may submit written data, views, or arguments to the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., to be received by him not later than thirty days after this proposal has been published in the FEDERAL REGISTER. Consideration will be given to all written data presented to the Director and to all other information available in the United States Department of Agriculture in arriving at a decision with respect to the proposed revision of the rice standards.

Done at Washington, D.C., this 23d day of April 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-3552; Filed, Apr. 27, 1959; 8:48 a.m.]

[7 CFR Part 925]

[Docket No. AO-226-A6]

MILK IN PUGET SOUND, WASHINGTON, MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Puget Sound, Washington, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 15th day after publication in this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Seattle, Washington, on October 1-6, 1958, pursuant to notice thereof which was issued September 11, 1958 (23 F.R. 7135).

A proposal was contained in the hearing notice to revise the method of computing producer prices and producer payrolls by using a "uniform bonus for base milk and a uniform price with a singly weighted average butterfat differential" for producer milk instead of using base and excess prices with a butterfat differential for each. Proponents abandoned this proposal at the hearing; therefore no further comment is necessary and the proposal is denied.

Another proposal in the hearing notice would amend § 925.41(b) of the order so as to enable any handler, with the prior approval, or in the presence, of the market administrator or his authorized representative, to dump skim milk or butterfat unsuitable for human consumption and not otherwise usable as a Class II milk product, whether or not degraded by any local health authority, such dumpage to be Class II milk not subject to the 25-cent location adjustment pursuant to § 925.54 of the order. Proponent did not appear at the hearing in support of such proposal. However, a representative of producer cooperatives testified in opposition to the inclusion of such provision without more comprehensive criteria to determine when and under what conditions milk might be unsuitable for human consumption. It is concluded that the proposal should be denied for lack of sufficient evidence of the conditions under which such a provision would facilitate orderly marketing.

A proposal to revoke the entire order was offered. Proponent failed to show in what manner the order is failing to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended. A representative of producer organizations testified that the concentration of the market's reserve milk supply in relatively few hands at this time, as was also the case when the order was first introduced, would be immediately effective in disrupting the market if the order were removed. It was contended by the latter witness that the order, with its marketwide pooling mechanism for distributing producer returns, had corrected the chaotic marketing condition for producers which had prevailed prior to the order and, further, that any potential for disruption is not cause to cancel the order but instead to amend it so as to make it even more effective in maintaining orderly marketing conditions. In view of the above, the proposal to revoke the order is denied.

A proposal to provide individual-handler pools in lieu of the marketwide pool was considered also. Proponent suggested that introduction of this plan would assist producers to receive higher returns. Although some producers undoubtedly would be benefited, it is equally true that other producers would find their prices reduced substantially. In view of the unequal sharing among producers of the burden of reserve milk supplies which would result from individual-handler pools under present circumstances in the market, it is concluded that such pooling plan should not be adopted at this time.

The remaining material issues on the record of the hearing, discussed below, relate to:

1. Revision of provisions defining and otherwise relating to the handling of milk by "producer-handlers".

2. Expansion of the "marketing area", as defined in the order, to include Kitsap and Mason Counties, Washington.

3. Revision of location adjustments applicable to Class I milk and to "base milk".

4. Modification of the provisions governing the classification of milk moved between plants by transfer or diversion.

5. Revision of the provisions relating to the pricing of producer milk diverted from a plant in one price district to a plant in another price district.

6. The reclassification from Class I milk to Class II milk of milk utilized in cocoa mixes and milk or milk products sterilized and packaged in hermetically sealed containers; the classification of milk into three classes rather than the present two classes.

7. Revision of the delivery performance requirements for a "country plant" to acquire pooling status; redefinition of the term "plant" to include reload points for pricing purposes.

8. The computation of producer "bases" and the rules governing transfers of such bases.

9. Introduction of an "economic-type" formula for the purpose of determining Class I prices, in lieu of the basic formula price plus a differential.

10. Several proposed changes in other provisions for the purpose of clarification, and to improve order administration.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

(1) Producer-handlers (as re-defined) should continue to be exempt from the pricing and pooling provisions of the order, but should be required to file monthly reports of milk receipts and utilization.

Producer organizations proposed that all producer-handlers be regulated as to their handling operations in the same manner as other handlers and that they be treated as producers in the production of milk on their own farms. As an alternative plan, proponent producers suggested regulation on such basis be applied at least to those producer-handlers with larger than family-sized operations who make sales directly to consumers.

In support of their position proponents contended that the exempt position of producer-handlers under the order provides a competitive buying advantage which has contributed to a steady growth in business for the latter, and has resulted in difficult resale competition for regulated handlers because of lower resale prices offered consumers by the producer-handlers. It was indicated also that (a) producer-handlers continue to avoid regulation by furnishing milk to each other, or by purchasing supplemental supplies from regulated handlers, as needed, (b) several producer-handlers conduct operations which require considerable hired labor and may no longer be classified as family-sized operations, and (c) some producer-handler businesses are larger than those of several regulated handlers. The general position of producers was supported in testimony of a representative of the handlers' committee.

The producer-handlers' association opposed such extension of the regulation, contending primarily that (1) the statute does not contemplate regulation of such persons, (2) producer-handlers do not enjoy a competitive advantage, (3) producer-handler operations are relatively insignificant and do not appreciably affect the Puget Sound market, and (4) if regulated, producer-handlers will be required to support the cost of regulation without realizing economic benefit therefrom.

Generally, under a Federal order it has not been necessary, in order to achieve the purposes of the statute, to regulate fully a person who processes in his own plant milk from his own farm production and does not receive milk from other dairy farmers. The administrative difficulties and expense of regulating such persons on the same basis as other persons operating plants and distributing milk in the marketing area has warranted their limited or complete exemption from pricing and pooling, depending upon circumstances in the par-

ticular market. As a dairy farmer such person maintains control of his milk until ultimate disposition and therefore his situation is quite different from the regular producer whose milk is marketed through a handler. The protection of the minimum price provisions of the order have little significance to the producer-handler in his capacity as a dairy farmer.

On the other hand, in his capacity as a handler, the producer-handler competes in the retail market with regulated handlers. It is the difficult status of this competition which prompted producer groups (some of whom indirectly are handlers also) to request the full regulation of producer-handlers. Whether or not such competitive situation presents sufficient reason for fully regulating producer-handlers as a means of removing the difficulties complained of should be appraised in light of certain facts.

The buying advantage for producer-handlers, claimed by proponents, approximates the difference between the market blend and Class I prices plus the amount over the Class I price in effect under the negotiated purchase and sale arrangements between cooperative associations and handlers. The latter element in the price structure is not required by the minimum price provisions of the order, but nevertheless affects the cost of milk to handlers buying regulated milk. This premium, which has prevailed in varying amounts for more than three years, was $0.40 per hundredweight at the time of the hearing and at times has exceeded $0.70 per hundredweight. The average difference between the weighted average (market blend) and Class I prices under the order was $0.77 per hundredweight in 1958 and is directly affected by the total receipts of milk in relation to Class I sales. Receipts have increased more rapidly than Class I sales during recent years at the effective price level.

If warranted, the application of the pricing and pooling provisions to milk of producer-handlers, in their capacity as handlers, undoubtedly would overcome in part the difficulties to which complaint is directed. It would not remove, however, any advantage in buying at the Class I price established by the order as compared with the associations' "negotiated" price to other handlers. The presence of a negotiated Class I price over a period of time in the market prevents a realistic appraisal of whether the simple fact of exemption from pricing and pooling for the producer-handler has been an important factor in the competitive problem between handlers and producer-handlers. Certainly the problem did not reach its present proportion in the period of regulation preceding the negotiated price levels. It is concluded that in this situation producer-handlers who operate as such, each relying solely on his own production and distribution facilities, should not be regulated in the same manner as other handlers.

It is not appropriate, however, to permit the producer-handler, through his exemption from pooling, to shift to other producers any portion of the burden of carrying the reserve supply associated with his fluid milk business. For this reason he should be required to be entirely dependent upon his own capacity to produce milk to fulfill his fluid milk requirements and necessary reserves, to earn an exemption from pricing and pooling. Dependence of the producer-handler on other sources, including regulated plants or other producer-handlers, for supplemental supplies would disadvantage other producers since their burden of carrying total market reserves would be increased by such means without a share in the benefits accruing from the fluid sales of the producer-handler. Unless the producer-handler produces on his own the fluid milk he distributes he is basically a handler and not a dairy farmer selling his own milk. Further, the opportunity to rely upon others for some portion of his supply provides an unwarranted incentive for producers to become distributors of milk and to employ numerous practices to qualify for exemption from pricing and pooling at the expense, or to the detriment, of other producers. The exemption granted the dairy farmer who handles his own milk should not provide an advantage for this type of dairy farmer of such magnitude that the stability of the market, and the effectiveness of the order in achieving its primary objectives, are threatened.

These unintended and undesirable consequences already have developed to some degree and their further development is in prospect under the prevailing economic conditions and existing order provisions unless action is taken to remove such tendency. Considerable incentive has been afforded for (a) producers to become producer-handlers, (b) producer-handlers to avoid the expense associated with the maintenance of a full reserve supply of milk, and (c) producer-handlers to take advantage of opportunities afforded under existing provisions of the order to increase volume handled outside the order by entering into contractual arrangements or otherwise adjusting their operations.

In order to mitigate the above consequences it is concluded that to maintain an exemption from pricing and pooling on his own milk, the producer-handler should be required to depend solely on milk of his own production for a full supply, without purchasing supplemental supplies from other sources, including regulated plants or other producer-handlers, or by leasing farms or herds from other persons. In order to insure this condition, it is necessary that the producer-handler be more specifically defined in terms of the functions he performs and the basis upon which he may maintain an exemption. This requires also that he file reports of receipts and utilization on a monthly basis as any other handler and provide such other information as will enable the market administrator to determine the proper status of such person in relation to the order requirements.

The further provision that a producer-handler whose designation as such has been cancelled cannot obtain redesignation as a producer-handler sooner than 12 months following such cancellation is necessary to prevent producer-handlers from relying on pool sources of milk to carry the necessary reserve supplies associated with the producer-handler operation throughout the entire year. Without this requirement, a producer-handler could choose to become fully regulated during periods when additional supplies of milk are required and revert to full exemption from pricing and pooling during any month when his own production is adequate to supply the demand for fluid milk, or, in the alternative, release production resources and facilities when they are not needed. Also, in order to guard against the delivery of producer-handler milk to another handler as pooled milk (rather than as other source milk), provision is made for cancellation of a producer-handler's designation if milk from his designated production resources and facilities is delivered in the name of some other person as pooled milk to another handler.

The provisions of the order are amended in a manner to implement the above conclusions.

(2) The marketing area should be expanded to include Kitsap and Mason Counties, Washington.

A handler proposed the inclusion of Kitsap County, Washington, in the regulated marketing area. Another handler proposed the addition of not only Kitsap County but also Mason County, Washington. Certain local milk distributors in such counties, who are not now subject to regulation, expressed opposition to such proposals.

Kitsap County, in which the city of Bremerton is located, lies directly west of Seattle on the Olympic (Kitsap) Peninsula, separated from Seattle by Puget Sound. Mason County, also on the Olympic Peninsula, is located across Puget Sound from the city of Tacoma, Washington. Seattle and Tacoma are the largest cities in which the handling of milk is covered by Order No. 25.

Principal means of access to Kitsap and Mason Counties from such cities are by toll bridge or ferry across Puget Sound. A longer route, by roadway, may be taken via Olympia, Washington. Such Peninsula counties are readily accessible also by roadway from neighboring Grays Harbor County, a portion of which county is presently included in the regulated marketing area.

Kitsap and Mason Counties represent a substantial market for milk regulated by the order. There is regular and continuing competition between regulated and unregulated distributors both in commercial channels and in connection with Government contract purchases by the Bremerton Navy Yard. About 37 percent of the bottled fluid milk distributed in Kitsap County is bottled in three plants subject to the order and is distributed on routes in such county in resale competition with milk produced on the Peninsula and bottled in local plants. One regulated handler maintains a distributing plant at Bremerton to serve local outlets, and one local distributor in Kitsap County distributes bottled milk in Tacoma. The latter (currently a producer-handler) cus-

tomarily purchases milk from regulated plants in amounts up to 88 percent of his total requirements and produces the remainder. Pursuant to the Washington State Uniform Fluid Milk Act, sanitary requirements in Kitsap and Mason Counties are similar to those applicable to milk distributed in the present marketing area.

As referred to above, local Kitsap-Mason distributors, particularly the local cooperative association, complete with regulated handlers for the contract business of the Bremerton Navy Yard. The local association from time to time holds the contract to supply fluid milk but does not have a supply adequate to fulfill the contract needs on a year-round basis without purchasing supplemental milk from regulated plant sources. Whether or not such association bids for the contract covering the fall months generally depends upon the level of the price at which the bid can be secured in relation to the cost of the supplemental supply of regulated milk. Other bidders for the contract are regulated handlers.

In addition, local distributors frequently purchase milk supplies in bulk, particularly in the season of lowest production, from regulated plants for bottling to supplement supplies from their own dairy farmers. Supplemental purchases of regulated milk by the local cooperative association have ranged between 624,000 and 3.2 million pounds per year in the period 1952–1957. Taking into account all supplemental supplies furnished, regulated milk constitutes approximately 50 percent of the total fluid milk disposition in such counties.

Also, regulated plants, which provide ready outlets for temporary week-end and seasonal surpluses of milk, have been utilized regularly by Kitsap-Mason distributors to dispose of unwanted milk since very limited facilities for handling milk for purposes other than bottling are maintained locally.

While Kitsap and Mason Counties considered alone are deficit in supply, the Olympic Peninsula as a whole is not a deficit-producing area (more than 62 million pounds produced annually as compared with fluid requirements of about 40 million pounds in Kitsap and Mason Counties, according to most recent data available). More than 40 million pounds of milk per year, qualified for fluid use in Kitsap and Mason Counties, are moved across Puget Sound from Clallam and Jefferson Counties on the Peninsula as part of the regular receipts of regulated plants even though distances are less, and per hundredweight cost lower, to move milk from such producing areas to the local plants serving Kitsap and Mason Counties.

The inclusion of Kitsap and Mason Counties in the marketing area will provide a framework for the minimum pricing of milk delivered to local distributors on a basis similar to that in effect in the presently defined marketing area and, in conjunction with the marketwide pooling plan and payment provisions, will insure a uniform basis for distributing among all producers serving a highly integrated area of distribution for both regulated and unregulated milk, the total proceeds from the sale of milk at the minimum class prices. The marketing problem found in such counties in relation to the regulated market is, in general, highly similar to that which prevailed between cooperative associations and proprietary handlers at the time of the first promulgation hearing in August 1950, as described in the Secretary's decision of April 5, 1951, on such hearing, official notice of which is taken, which marketing problem indicated the original need for regulation.

Orderly marketing for producers will be encouraged by including such two counties in the marketing area as part of District No. 1.

(3) The price adjustments on Class I and base milk according to the location of the plant should be revised.

The present order provisions provide for location adjustments of 30 cents, 40 cents and 20 cents per hundredweight in Districts 2, 3, and 4, of the marketing area, respectively. A location adjustment of 45 cents per hundredweight is provided for milk received at plants in Clallam and Jefferson Counties, and a 40-cent per hundredweight location adjustment applies at any other plant located outside District 1 and the counties of Kitsap and Mason. Producer associations which market large volumes of milk from various segments of the milkshed and Kittitas County proposed a new schedule of location differentials, as follows:

45 cents in Clallam and Jefferson Counties;
25 cents in District 2 and Kittitas County;
20 cents in District 3;
15 cents in District 4; and
40 cents at any other plant located outside the marketing area.

Consideration also was given to a location differential for that portion of Pierce County not included in the marketing area. Proponents suggest that the differential for such area should be no higher than the rate for District No. 3, and preferably should be treated on the same basis as District No. 1.

Technological changes and efficiencies in the handling and transportation of milk have taken place which have reduced the costs of moving milk from farms to the principal communities in the marketing area in the period since the present location differentials were established. In those areas where the conversion from can to bulk handling of milk virtually has been completed, it is frequently possible to move milk directly from farms to District 1 plants, by-passing country plants in the production area whenever the milk is needed at the city. However, processing plants in the production area are still required to handle Grade A milk supplies when not needed for Class I uses.

Contractual agreements between the producer associations and transport companies which haul milk from plants in the various districts and Kittitas County to District 1 plants provide for hauling charges in line with the per hundredweight rates proposed. One association which owns and operates its own tank trucks submitted cost figures incurred in transporting milk substantially similar to the contract carrier charges.

While hauling charges vary depending upon the size of the load, the schedule of location differentials proposed by producer organizations are representative of the costs experienced under present circumstances for moving milk from various plant locations in the milkshed to the main centers of consumption in the marketing area.

The present location differential applicable at plants in Clallam and Jefferson Counties is 45 cents per hundredweight. Milk can be transferred, however, from a plant in Jefferson County (area of Sequim) to a plant in Bremerton (Kitsap County), a distance of about 53 miles, at a hauling rate of 25–30 cents per hundredweight. The distance from Sequim to Kingston on the Olympic Peninsula, terminal point for the Puget Sound ferry, is 52 miles, or approximately the same distance as from Sequim to Bremerton.

Although proponent producer organizations suggested continuation of the 45-cent differential for milk at plants in Clallam and Jefferson Counties, a location differential of 35 cents at such plants will more nearly reflect the actual costs of moving such milk to consumption centers in District No. 1 of the marketing area on either side of Puget Sound. Such rates make due allowance for the ferry charge on milk crossing Puget Sound. Also, such differential rate will provide uniformity in Class I prices among all handlers serving, or in a position to furnish milk to, Kitsap and Mason Counties.

A portion of Pierce County is included in District No. 1 of the marketing area. The remainder of such county is outside the marketing area. Failure to eliminate the location differential insofar as Pierce County is concerned would provide for a lesser cost (by 40 cents per hundredweight) to any handler whose plant is in such county but who distributes milk in the marketing area in competition with handlers having no location adjustment. Likewise, producers at a plant in such county would receive 40 cents less than other producers in the county who ship to plants located in District No. 1. Uniformity of pricing and orderly marketing will be promoted by treating Pierce County on the same pricing basis as District No. 1.

It is concluded that the schedule of location differentials be revised in order to reflect actual costs in transporting milk under current conditions and by efficient means.

(4) The order should be revised to permit Class II classification of milk transferred from a fluid milk plant or a country plant to a plant regulated by another Federal milk order.

Under the present provisions of the order, milk moved from a plant under this order to a nonpool plant outside the marketing area or certain other counties, including any plant regulated under another Federal order, is classified and priced as Class I milk. A handler who operates plants under both the Puget Sound and Inland Empire orders proposed that milk transferred or diverted

from a plant regulated under the Puget Sound order to a plant regulated under the Inland Empire order be classified and priced as Class II milk.

Proponent testified in support of the proposal that: (1) There have been occasions when the Inland Empire market has been short of milk for the manufacture of cottage cheese and ice cream while at the same time there were plentiful supplies of milk in the Puget Sound market; and (2) Puget Sound milk could have been purchased by Inland Empire handlers for use in cottage cheese and ice cream during such periods, if the provision which requires that such purchases be classified and priced as Class I milk in the Puget Sound market had not made such purchases infeasible.

While proponent stated that he could foresee no immediate need for the proposed provision, he further stated that the Inland Empire market might at some time again be short of milk for use in such products at the same time that extra supplies are available in the Puget Sound market.

A witness representing certain producer groups testified in opposition to the proposal. This witness stated that the present provision of the order is based on the fact that there are adequate facilities within the Puget Sound marketing area to handle milk in excess of fluid requirements and that, except in an emergency situation, it is not necessary to transport milk outside the marketing area for Class II disposition. Such witness pointed out also that the Spokane ordinance requires the use of Grade A milk for the manufacture of cottage cheese and contended that to permit milk to move from the Puget Sound market at the Class II price to meet the Grade A requirements of another market is not warranted.

In drafting the present provisions governing interplant movements consideration was given not only to the extent of facilities within the milkshed for utilizing milk in excess of fluid requirements, but also to a system which would minimize administrative costs and difficulties of determining the ultimate use of the milk. To permit milk to move to nonpool plants normally would require the market administrator to perform verification and audit at the nonpool plant, sometimes at a relatively high cost. However, when milk is moved from a Puget Sound plant to a plant which is regulated under another Federal order, such verification and audit is readily feasible inasmuch as the handler under the other order receiving such milk must submit monthly reports to the market administrator of such other order, and such reports are subject to verification and audit as a regular function of order administration. Therefore, little additional administrative cost or difficulty is incurred in verifying the use of such milk in terms of the classification and allocation sequence provided by the other order.

It is noted further that under present provisions of the Puget Sound and Inland Empire orders it is possible for a Puget Sound handler to manufacture such Class II products as nonfat dry milk, unsalted butter, or condensed milk in his regulated plant and move such products to the Inland Empire market for conversion into other Class II products.

In view of the above considerations, it is concluded that the order should be amended to provide that milk be classified as Class II milk if transferred from an Order No. 25 plant to another Federally regulated market and assigned to Class II milk under the classification and allocation provisions of the other order. However, as to milk moved to outside plants not regulated by any Federal order, the reasons for treatment as Class I of any transfers from the Puget Sound market are still applicable and the provisions governing such types of transfers should not be changed.

(5) The provisions relating to the pricing of producer milk diverted from a plant in one price district to a plant in another price district should be revised.

The present definition of "producer milk" provides that milk received at a plant in one price district on 60 percent of the days of delivery during the month may be delivered directly from farms to a plant in a different price district on the remaining days of such month and, for pricing purposes, be deemed to have been received at the former plant.

It was proposed by the cooperative associations testifying at the hearing that producer milk be priced, in all cases, at the location of the plant where it is physically received.

In numerous instances producers have been assigned to District 1 plants but their milk has been diverted, within the prescribed limitations as to the number of days, to plants in other price districts where, by virtue of location adjustment provisions, lower prices prevail under the order. For accounting and payment purposes, such diverted deliveries of producer milk are regarded as received at the District 1 plant, where no location adjustment is deductible, and the handler is credited, in the computation of his obligations to producers, with payment to such producers at the full District 1 uniform price, although up to 40 percent of the milk was physically received and utilized in another price district where the lower price obtains. Thus, under present order language, the handler may draw from the pool sufficient money to pay the producer of such diverted milk a uniform price higher than that applicable to other milk customarily delivered to the location to which such milk was diverted.

In certain other cases, milk has been hauled from the farm to a District No. 1 plant, received there, and then re-hauled to a plant in a lower-priced district. By this means also, the producers involved receive the District No. 1 uniform price and the handler is so credited in the determination of his pool obligation, even though the milk may not be needed at the District No. 1 location.

The diversion privilege is intended primarily to permit efficiency in the marketing of milk not needed at fluid milk plants for bottling purposes. On days when the milk is moved by the handler from the farm to a plant in District 1 the cost of transportation is allowed the handler through a hauling deduction from the producer's check. On days when the milk does not move to such plant but is diverted by the handler to a plant in another district a cost of hauling less than that contemplated by the customary hauling deduction may be incurred by the handler. Thus, the diversion of milk in such circumstances jeopardizes the proper distribution of producer returns and offers opportunity for competitive advantage to the handler, thereby impeding the orderly marketing of milk.

Pricing milk in all cases at the location of the plant where it is first physically received rather than at the plant from which it is diverted will reflect more nearly the economic value of producer milk at the location where it is utilized. Likewise, producer returns will be more in accord with this value and the actual costs involved in transportation of the milk.

The practice of hauling milk from the farm to a District No. 1 plant, receiving it, and then hauling the same milk, or an equivalent quantity, to a plant in a lower-priced district likewise may lead to advantage to the handler if location adjustments do not properly reflect actual hauling costs from country plant locations to District No. 1. Problems of this kind also will be minimized as the result of the above pricing mechanism and the reduced location adjustments discussed elsewhere in this decision.

In view of the above considerations, it is concluded that the proposal should be adopted.

(6) The classification provisions should be modified so as to classify milk utilized in "cocoa mixes" and in sterilized milk and milk products in hermetically sealed metal containers as Class II milk; the classification of milk into two classes should be continued.

The present language of the order provides for the classification of milk as either Class I milk or Class II milk. It was proposed by a handler that the order be amended to include milk for "cocoa mixes" in Class II milk rather than in Class I milk, as presently classified. Another handler proposal would remove all milk and milk products sterilized and packaged in hermetically sealed containers from Class I milk and provide for their classification in Class II milk.

A handler manufactures a "cocoa mix" which is disposed of under a trade name to a distributing company which, in turn, disposes of the product to restaurants to be served, by the addition of water or skim milk, as a hot cocoa drink. The product (which must be continously agitated) is dispensed at restaurants by means of a special dispenser. It has a body and viscosity similar to low-fat ice cream mix. The butterfat and nonfat milk solids used in the manufacture of the product are usually in the form of sweetened condensed milk and nonfat dry milk. Butter, milk and cream also are used at times in its manufacture. The applicable health authorities do not require that the product be made from milk

meeting the Grade A standards and, therefore, it is in competition with cocoa powders made from ungraded milk which are mixed with water and sold as hot chocolate.

Since this product is not required to be made from Grade A milk and is in direct competition, from a procurement standpoint, with supplies of ungraded whole milk and nonfat dry milk, it should be included in Class II milk. However, since it does not constitute a residual outlet for Grade A milk, any milk so utilized should be subject to the Class II location adjustment as provided in § 925.54 of the order. The order is so revised.

A proposal was made to provide for the classification in Class II milk of milk disposed of as milk or milk products sterilized and packaged in hermetically-sealed containers. The proponent handler operates a plant in East Stanwood, Washington, where sterilized whole milk and ice cream mixes are processed and packaged in containers of various sizes. At times sterilized cream and other milk products, including cocoa mixes, also are processed and packaged. Disposition of milk and products processed in the plant is made mainly to military and export outlets. The minimum ingredient specification is milk of manufacturing grade.

Some handlers in the Puget Sound market regularly package and distribute Class I milk both at retail and wholesale in paper containers which are advertised as hermetically-sealed. Under consideration here, however, are only those products which are packaged in hermetically-sealed metal containers.

The regular milk supply at proponent's plant is primarily manufacturing-grade milk purchased from dairy farmers in Snohomish County. The available supply of ungraded milk from dairy farms in the milkshed has been dwindling at a rapid rate and is insufficient to fill the needs of the plant. The classification and pricing of producer milk in Class I makes its use in this product prohibitive. While the proposed classification will not insure the availability of producer milk for such uses, it will permit producer milk to move to such plant as Class II milk, providing an additional outlet for producer milk in excess of handlers' fluid requirements.

It is concluded that the classification provisions should be modified to provide for classification in Class II milk of all milk and milk products disposed of in hermetically-sealed metal containers. As in the case of cocoa mixes, this product does not represent a residual use and, therefore, it is concluded further that the milk so utilized should be subject to the Class II location adjustment as provided in § 925.54.

As stated above, the present order provides for two classes of milk. Class I milk includes milk used for those products which the health regulations require to be made from Grade A milk and milk for any product not specifically accounted for as Class II milk. Class II milk is that milk used for products not required under the applicable health regulations to be processed from Grade A milk.

A producer association proposed that a three-class classification system be established. Proponent's proposal would continue to classify in Class I milk that milk and butterfat used for products required by the health regulations to be processed from Grade A milk. Class II milk would include "skim milk and butterfat used to produce cottage cheese, ice cream mix and all other perishable products that cannot be shipped long distances". Class III would include "skim milk and butterfat used to produce butter, hard cheeses, powdered milk and milk utilized for purposes other than human consumption . . ." Proponent indicated further that classification in Class II milk should be sufficiently flexible to permit the market administrator to reclassify to the lowest classification, milk for any Class II milk product whenever handlers encounter a competitive condition tending to limit its sale.

Proponent further proposed that the price for Class II milk be established at a level 50 cents below the Class I price, and that Class III milk be priced the same as present Class II milk.

The Agricultural Marketing Agreement Act of 1937, as amended, under which Federal orders are promulgated and issued, requires "that milk be classified in accordance with the form in which or the purpose for which it is used, * * *". Classification of milk on the basis of whether or not the milk can be transported long distances fails to meet the criteria of classification established by the Act. Likewise, the proposal to have the market administrator establish a lower classification whenever a handler encounters a competitive situation which would tend to limite sales of a Class II product is not practicable in terms of the classification requirements of the Act. The authority to classify and price milk is vested in the Secretary. While the market administrator may recommend amendments to the Secretary, it is beyond the powers which may be delegated to the market administrator to either permit or require him to classify or price milk on any basis other than as determined by the Secretary and provided by the terms of the order.

While the named products, cottage cheese and ice cream, proposed for Class II milk, in many cases may contain Grade A (producer) milk, they are not products required under the applicable health regulations to be made from Grade A milk. Such products must be disposed of at this time in the same competitive market as products made from factory, or manufacturing, milk.

It is necessary to provide pricing which will permit excess milk to move readily into manufacturing channels when producer milk receipts are in excess of the market's fluid milk requirements. Proponent of the three-class classification proposed a Class II price 50 cents below the Class I price but presented no testimony as to the feasibility of moving milk at the proposed price in those products which conceivably would be covered by the proposed Class II milk. Attaching a price at the level proposed to milk and butterfat utilized in such a product as evaporated milk, which is a product eligible for long-distance shipment, raises serious question as to the continued operation of certain plants which are significant outlets for reserve milk supplies.

In view of the above considerations, it is concluded that the proposal for a three-class classification plan should not be adopted at this time.

(7) No revision should be made in the delivery performance requirements for a "country plant" to acquire pool status; the definition of plant should be modified to cover "reload points" in order to facilitate the proper pricing of milk according to location.

The present order provisions require that not less than 50 percent of the receipts of milk from dairy farmers at a country plant be shipped in fluid form to a fluid milk plant in each of the months October through December, and not less than 20 percent of such receipts in each of the months of January through September, for the plant to acquire pool status as a country plant. However, if such plant performance requirements are met for the period October through December, no further performance is required in the months of January through September. A proposal was made to include milk received from other regulated plants as well as milk received from dairy farmers in the total receipts to which such shipping percentages apply.

Proponents' proposal was intended primarily to prevent possible abuse of the diversion privilege foreseen under the present provision. They contended that it would be possible for the operator of some plant (currently a nonpool plant) to assign a substantial portion of the dairy farmers at the plant to a regulated plant for the months when the 50 percent shipping percentage is applicable, and subsequently divert the milk from the regulated plant to the nonpool plant. Since the shipping percentage applies only to receipts from dairy farmers and the diverted milk is considered as received as producer milk at the regulated plant, proponents envisioned that the operator of the nonpool plant might avoid the shipping requirements for country plant status by shipping 50 percent of a reduced volume of receipts.

The potential abuses to which testimony was directed are not a serious threat to orderly marketing at this time. Further, other amendments recommended elsewhere in the decision, particularly with respect to the reduction in location adjustments and the pricing of diverted milk at the plant where it is physically received, will minimize any potential problem. Under the latter provision, any milk "diverted" to a plant for which qualification as a country plant is desired would become receipts from dairy farmers at such plant for the month and, therefore, the shipping percentage for such month would be applicable to the "diverted" milk as well as to other dairy farmer milk at the plant.

The order should be amended also to redefine the term "plant" to include "reload points" and, for purposes of pricing and pooling, provide for possible qualification of any reload point as a "country plant".

The present order definition of a "plant" means the land, buildings, surroundings, facilities, and equipment whether owned or operated by one or more persons constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling and processing of milk or milk products. A witness representing producer cooperative associations supported a proposal to revise the definition of plant to include stations at which reloading is done even though no processing is carried on at such location.

The present definition of plant was adopted before bulk milk handling became a major consideration. Reload stations at which milk is transferred from one tank truck to another for forwarding to the market developed with the conversion from can to bulk handling of milk. At the time the definition was incorporated, the language of the provision "receiving, handling and processing" adequately described the functions of a plant. The function of assembly of milk for movement to the market may be performed, however, by a reload station as well as by plants where some processing takes place.

The health authorities having jurisdiction in the market have prescribed certain sanitary requirements which a reload station must meet to qualify as a milk handling establishment. They require that the reload station be equipped with a covered area where the milk can be transferred from one road vehicle to another and with facilities for washing tanks which are emptied. Such facility must be under the control of the handler.

Since a reload point under the bulk handling method serves a major function similar to that of a country plant under the can-handling method, treatment under the order in the same manner insofar as pricing, location differentials to handlers, and performance requirments for pool status are concerned, will facilitate the orderly marketing of milk. The term "plant" then should be expanded to include any structure in which are maintained facilities for washing tanks and at which milk of any producer moved from the farm in a tank truck is commingled with milk of other producers before delivery to a fluid milk plant or country plant. A reloading operation on the premises of a processing plant would be considered, of course, as a part of such plant's operation.

(8) The provisions relating to producer bases should not be revised as to the number of months during the year when bases are established; the provisions governing new producer bases should be revised; and the provisions relating to transfers of base should be modified.

The present order provides for the computation of a daily base for each producer whose milk was received by a handler on not less than 120 days during the months of August through December, inclusive. The daily base is an amount computed by dividing such producer's total pounds of milk delivered in such five-month period by the number of days from the date of his first delivery to the end of such five-month period. The base so computed, which is recomputed each year, becomes effective on the first day of February next following, and remains in effect through the month of January of the next succeeding year. Any producer who is not eligible to receive a base as described above, or relinquishes his base under prescribed limitations, is allotted a base computed by multiplying his deliveries to a handler during the month by an appropriate percentage, ranging from 45 percent in May to 80 percent in November and December.

A proposal was made by a producer association to amend the base computation provisions so that the base-earning period would be any nine months during the calendar year when producer receipts and Class I sales are in nearest balance, in lieu of the five consecutive fall months as presently provided. Other producer associations, making no proposal for change with respect to the base-making period, proposed, however, that the order be amended to adjust the new producer schedule of delivery percentages used in computing base, to conform to a changed seasonal pattern of production. The latter associations also proposed that the order be amended to remove all restrictions on transfers of base between the original holder and a member of his immediate family and, in case of death, to permit such transfer to a member of the immediate family, or between the holder's estate and one outside party.

Proponent for the revised base-earning period testified that it is beneficial to the producer, the handler and the consumer to have a uniform monthly production of milk, avoiding wide seasonal variations. It was stated further that although the current base plan has proved to be an effective means of adjusting production seasonally to periods when most needed, two "peaks" of production occur during the year. It was also contended that hardship is incurred by any producer who is not able to adjust precisely to the present base-earning period, and that if producers were not given advance notice of the base-earning months, there would be greater incentive for uniform production throughout the year.

The witness for other cooperative associations expressed agreement with the general objectives of the proposed revision of the plan, pointing out that producers had succeeded in increasing their production during the present base-earning months, particularly during August and September, and that if the base-earning months were continued without change, an eventual result likely would be even greater production in the base-earning period, with January and February becoming more pronounced as low production months relative to other months. As previously indicated, such associations made no specific proposal for modifying the base-earning period at this time.

The base and excess plan of payment to producers was incorporated in the initial order which became effective in 1951. Both the base-earning period and the period to which payments on base milk were applicable were revised in 1952. The percentage of delivery schedule for computing new producer bases was modified in 1952 and 1954. Other modifications of the base plan have been minor in their effect. The limited purpose of the plan is to encourage a more even seasonal production pattern.

Milk delivery figures for the period January 1952 through August 1958 are contained in the hearing record. Official notice is taken of the monthly statistical summary for each of the months of September through December 1958, inclusive, released by the market administrator. These releases, together with record information, afford comparisons of monthly data with respect to milk receipts for the full year 1958 with those for prior years. Producer receipts of milk in May, usually the month of highest production seasonally, have shown a considerable decrease in relation to receipts in November, normally the month of lowest production, since the base and excess plan has been in effect. For example, receipts of producer milk in May 1952 were 131.6 percent of the monthly average for the year while November 1952 receipts were 84.5 percent of such average. Even though there was a substantial annual increase in producer milk receipts from 1952 to 1958, receipts of producer milk in May 1958 were only 122 percent of the monthly average for such year and receipts in November were 94 percent of such average. November historically has been the month of lowest seasonal deliveries, but in recent years January and February receipts have been below the November level. Improvements in the production pattern have occurred primarily in the spring and early fall months. In 1952 there were only three months in which monthly receipts were within 10 percent of the monthly average for the year, whereas in 1958 receipts were within 10 percent of the monthly average during nine months of the year. Although the revised pattern of production which has developed over the past several years probably may be attributable to a number of circumstances, and not solely to the operation of the base plan, these data demonstrate marked progress toward accomplishment of the stated purpose of the plan, i.e., development of a more even pattern of production throughout the year. In view of the above, it is concluded that the base-earning months should remain unchanged.

The opportunity to be allotted base in the regular manner, as described above, should be extended, however, in all cases where the information is made available for the base computation, to those producers who enter the market because of expansion of the marketing area, or through the choice of the distributor to whom they sell. This is necessary in order that such producers will not suffer undue hardship as the result of an action over which they had no control. The

producer-handler who becomes a producer should have similar treatment as to base if his Class I sales accrue to the pool.

The provisions relating to establishment of bases for producers entering the market on their own volition for the first time, and an alternative method for establishing base for the producer who desires to cancel his base and be treated as a new producer under the limitations prescribed, should be revised also.

Since the percentage of delivery schedule on which new producer bases are computed was last revised, the pattern of production has changed seasonally, and both total production and total base milk have increased in relation to Class I sales. A greater number of producers has made use of earned base in the spring months while such earned base was relatively favorable as compared with their bases computed under the new producer schedule, but have cancelled earned base in favor of the new producer schedule whenever the latter provided a more favorable return. This has occurred mainly in August and subsequent months. The privilege of relinquishing base made in the regular manner was included to relieve possible cases of hardship, but was not intended to provide a producer the means of general avoidance of the regular method of base computation, in order to gain an increased return at the expense of other producers. Unless revised, the new producer base provisions would make the base plan relatively ineffective. It is concluded that such delivery percentages should be revised as provided in § 925.60(b) of the amendments made a part of this decision.

A provision should be incorporated in the "base rules" to remove restriction on transfers of base to a member of the immediate family of the base-holder and, in case of the base-holder's death, to a member of his family, or to the estate of the base-holder and in turn to one outside party.

A witness representing several cooperative associations testified that while it is their position that transfers of earned bases should be held to a minimum, application of the present rules has caused hardship in some cases. It also was pointed out that on occasion the rules have made difficult an orderly transfer of property, particularly when made necessary by the death of a producer. In order to facilitate transfers of base in such circumstance, it was proposed by such witness that the order be amended to remove all restrictions on transfers of base where the recipient is a member of the immediate family of the base holder, and in case of death, to permit the transfer to a member of his immediate family, or to his estate and then to one outside party. Proponent testified that the provision requiring that the market administrator must be satisfied that the conveyance of the herd is bona fide, and not for the purpose of evading any provisions of the base rules, provides adequate safeguard against abuses where transfers of base are involved in settling estates.

Adoption of the proposal would not have adverse effect on the orderly operation of the base plan and would provide relief from hardship in some instances. In view of the above, it is concluded that the proposal should be adopted.

(9) No change should be made in the method of determining Class I prices.

The order provides that Class I prices shall be determined by the use of a basic formula price plus a differential of $1.65 per hundredweight. The basic formula price is the highest of the prices computed from (1) a butter-powder formula, (2) a butter-cheese formula, or (3) the average of prices paid at selected midwest condenseries. The Class I price formula also contains a contra-seasonal provision which provides that the Class I price for the months of April through June, inclusive, shall not be higher than the Class I price computed for the month of March immediately preceding, and the Class I price for the months of October through January, inclusive, shall not be lower than the Class I price computed for the month of September immediately preceding.

A producer association introduced a proposal to establish Class I prices by an "economic-type" formula of the same general type as the Class I price formula in use in the Boston, Massachusetts, market. The formula would reflect the following factors: (1) Consumer purchasing power in the State of Washington, (2) the wholesale price level in the United States, (3) changes in the cost of producing milk in the State of Washington, and (4) beef prices in the State of Washington. A seasonally adjusted index of department store sales in western Washington (or the index of per capita disposable personal income in the State) was offered as the measure of consumer purchasing power; the monthly index of U.S. wholesale prices as the measure of general economic conditions; an index of mixed dairy feed, hay, and labor, weighted in the proportion of the respective share of each in milk production costs, as the reflector of changes in the cost of producing milk; and the beef price index for the State of Washington as the indicator of changes taking place in a principal agricultural industry competing for factors used in the production of milk.

Proponent testified that the proposed formula was based on a study made at the Washington State College, published in January 1952 as Station Circular No. 178 titled "The Pricing of Class I Milk in the Puget Sound, Washington, Milk Marketing Area". A supplement to Circular No. 178 containing statistical data basic to the study and relating to more recent years was published in November 1957 and also was offered in evidence.

Proponent contended that the present Class I price formula does not appear to be the most efficient pricing mechanism available and the following reasons were presented for its revision: (1) The basic price formula is based on prices paid to dairymen in Wisconsin and Michigan and does not reflect supply and demand conditions for milk in the Puget Sound market; (2) any change in the method of computing Class I prices requires a public hearing in order to adduce testimony from the industry and the public; (3) time is required for study and approval by the Secretary; and finally (4) a vote is necessary to secure producer approval for amending price provisions. It was stated further that the proposal was not offered for the purpose of establishing a higher Class I price level; nevertheless, proponents expressed the view that producers are not receiving adequate compensation for producing milk, the uniform price being reduced by relatively large volumes of producer milk in Class II milk uses.

A witness representing several cooperative associations which are responsible for receiving, handling or marketing substantial amounts of producer milk in the Puget Sound market, including a large proportion of the market's reserve supplies, testified that if an economic-type formula were to be considered for use in the Puget Sound market, a period of study and preparation should be allowed the industry, and that the various elements in the formula should be selected from a complete review of all factors affecting supply and demand conditions in the Puget Sound area to find those movers which have specific application in such region, and not simply to adopt elements because they are similar to those contained in an existing formula having local significance in a distant area. Such witness further stated that the several cooperative organizations on whose behalf he was testifying were familiar with the 1952 pricing study offered by proponent, and also with the operation of the formula in effect in the Boston, Massachusetts, market, but considered the present Order No. 25 formula preferable for the Puget Sound area at this time.

The circular published in 1952 on which proponent's proposal was based states that the purpose of the study was to present an alternative Class I price formula for the Puget Sound market which would (1) create greater stability in pricing, and (2) bring forth a milk supply pattern more in line with Class I utilization. The circular itself recommended that further study and appraisal be given by the industry to the use of an economic formula before its adoption. It is reasonable to conclude that the pertinent considerations and conclusions set forth in the circular, relating to the pricing of Class II milk in the Puget Sound market, were based on concern over possible shortages of supply in relation to potential needs and the relatively wide seasonal fluctuations in production then prevailing.

Since the study was published several important changes have taken place in the Puget Sound market. Milk supplies have increased substantially in relation to Class I sales to eliminate any fear of shortages and the seasonal pattern of production, discussed elsewhere in this decision, has changed significantly. Producers virtually have completed the conversion from can to bulk handling of milk and milk supplies for the marketing area are procured from a more widespread area at decreased transportation rates.

The statute under which orders are issued requires that class prices for milk

must be established on the basis of evidence adduced at a public hearing, and that they shall be at levels which will reflect economic conditions affecting the market supply and demand for milk in the area, insure a sufficient supply of pure and wholesome milk, and be in the public interest. There is no indication of any marketing condition in the area which is likely to reduce milk supplies for the market below adequate levels in the foreseeable future. In this connection it is noted that in 1958 as a whole Class I utilization was only 55 percent of producer milk receipts.

The type of basic price formula in effect which is in general use in many other fluid markets also, provides a basis for relating prices in this market to general economic conditions in the dairy industry, and the differential added to the basic formula price has induced a sufficient quantity of milk under local production conditions. In the absence of testimony indicating in what manner the proposed formula under present marketing conditions might facilitate price stability, or further improve the relatively even production pattern which has been achieved under the present formula operating in conjunction with the base and excess plan, it is concluded that no change should be made in the basis of establishing minimum Class I prices at this time.

(10) Several changes of order language should be made for the purposes of clarification and of improving order administration.

Problems of administration have arisen which suggest clarification of language in certain provisions of the order. In this connection the language of the proviso of § 925.45(a) should be revised. The present wording of the section provides that milk the equivalent of nonfat milk solids be computed when such solids used to fortify Class I milk products or for reconstituting purposes come from products derived from skim milk. The proposal would provide similar treatment with respect to computing the quantity of nonfat milk solids derived from milk as well as from skim milk. The question of accounting for nonfat milk solids on a skim milk equivalent basis when so utilized was discussed in the decision of the Assistant Secretary September 10, 1953, Docket No. AO–226–A3, official notice of which is taken. Incorporating the suggested language of the proposed amendment will clarify the intent of the prior decision and continue the application of the provision in the manner in which it has applied by administrative interpretation. It is concluded that the proposals on this matter should be adopted.

Other minor changes are appropriate in connection with pricing and location adjustments to bring such provisions up-to-date. Certain portions of order language have become obsolete and are deleted. These changes are self-explanatory and do not change the general intent of the provisions involved.

It is concluded further that the order should be redrafted and reissued in its entirety at the time of a final decision on this hearing record in order that it may be more readily available in the form of a single, complete document.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(d) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the Puget Sound, Washington, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

§ 925.6 [Amendment]

1a. Add to § 925.6 after the words "Thurston County", as they appear in the first sentence, the following: "Kitsap County and Mason County".

b. Further revise § 925.6 to specify District No. 1 of the marketing area as follows:

"District No. 1" of the marketing area shall include that part of the marketing area lying within the counties of King, Pierce, Snohomish, Thurston, Kitsap, Mason, and Grays Harbor.

2. Delete § 925.7 in its entirety and substitute therefor the following:

§ 925.7 Plant.

"Plant" means the land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment which is maintained and operated primarily for the receiving, handling and processing of milk and milk products: *Provided,* That this definition shall include any building within its premises, equipment and facilities, including facilities for washing tanks (hereinafter also referred to as "reload point"), which is used primarily as a location at which milk is transferred from one bulk tank farm pick-up truck to another or to an over-the-road tank truck, and which is approved by an appropriate health authority for such use.

§ 925.9 [Amendment]

3. Delete the first five words in § 925.9 and substitute therefor the following: "'Country plant' means any plant (including any reload point)"; and delete from the first proviso of the same § 925.9 the phrase "Kristoferson Dairy, Inc. (or its successor), and the plant of the Dungeness-Sequim Cooperative Creameries at Dungeness" and substitute therefor the phrase "Sequim Creamery Association."

4. Delete § 925.13 in its entirety and substitute therefor the following:

§ 925.13 Producer milk.

"Producer milk" or "milk received from producers" means milk qualified as described in § 925.12 and either received directly from a farm at a fluid milk plant or country plant, or caused to be diverted by a handler for his account from such plant to a nonpool plant: *Provided,* That any such milk diverted to a nonpool plant shall be deemed to have been received by the diverting handler at the location of the plant to which it was diverted.

5. Delete § 925.16 in its entirety and substitute therefor the following:

§ 925.16 Producer-handler.

"Producer-handler" means a handler who, following the filing of an application pursuant to paragraph (a) of this section, has been so designated by the market administrator upon his determination that all the requirements of paragraph (b) of this section have been met. Such designation shall be effective on the first day of the month after

receipt by the market administrator of such application, except that the effective date of designation shall be the same as the effective date of this provision if the application therefor is filed not later than 15 days after such effective date. The effective date of designation shall be governed by the date of filing new applications in instances where applications previously filed have been denied or cancelled. All designations shall remain in effect until cancelled pursuant to paragraph (c) of this section.

(a) *Application.* Any handler claiming to meet the requirements of paragraph (b) of this section may file with the market administrator, on forms prescribed by the market administrator, an application for designation as a producer-handler. The application shall contain complete information on the following:

(1) A listing and description of all resources and facilities used for the production of milk which are owned, or directly or indirectly operated or controlled, by the applicant.

(2) A listing and description of all resources and facilities used for the processing and distribution of milk or milk products within the marketing area which are owned, or directly or indirectly operated or controlled by, the applicant.

(3) A listing and description of any other resources and facilities used in the production, handling, processing and distribution (including store outlets) of milk or milk products in which the applicant in any way has an interest, including any contractual arrangement, and the names of any other person(s) having or exercising any degree of ownership, management, or control in, or with whom there exists any contractual arrangement with respect to, the applicant's operation either in his capacity as a handler or in his capacity as a dairy farmer.

(4) A listing and description of the resources and facilities used in the production, handling, processing and distribution of milk which the applicant desires to be determined as his milk production, handling, processing and distribution unit in connection with his designation as a producer-handler: *Provided,* That all milk production resources and facilities owned, operated or controlled by the applicant either directly or indirectly or in part, including any such resources and facilities of any partner or stockholder of applicant, shall be considered as constituting a part of the applicant's milk production unit in the absence of proof satisfactory to the market administrator that some portion of such facilities or resources do not constitute an actual or potential source of milk supply for the applicant's operation as a producer-handler: *And provided further,* That any and all facilities, including store outlets, for the processing and distribution of milk within the marketing area, of any person(s) in which the applicant has a degree of ownership or other financial interest, or directly or indirectly exercises any degree of management or control with respect to the operation of such facilities, shall be considered as constituting a part of the applicant's milk processing and distribution facilities.

(5) Such other information as may be required by the market administrator.

(b) *Requirements.* (1) The handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles milk received from production facilities and resources (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) the operation and management of which also are under the complete and exclusive control of the handler (in his capacity as a dairy farmer), all of which facilities and resources for the production, processing and distribution of milk constitute an integrated operation over which such handler exercises complete and exclusive control while holding a designation under this section.

(2) The handler, in his capacity as such, handles no milk or milk products in the form specified in § 925.41(a) other than that derived from the milk production facilities and resources designated by the market administrator as constituting the applicant's operation as a dairy farmer for the purposes of this section.

(3) The handler is not, either directly or indirectly, associated with the business control, management or operation of another plant or another handler, nor is another handler so associated with his operation.

(4) The applicant handler does not dispose of milk through any processing or distribution facility, including any store outlet, used for the disposition of Class I milk within the marketing area, operated by any person in which the applicant handler has a degree of ownership or other financial interest, or directly or indirectly exercises any degree of management or control with respect to the operation of such facility, which, during the month, receives any item of Class I milk from any source other than the plant of the applicant handler.

(5) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with subparagraphs (1), (2), (3) and (4) of this paragraph for a period of 12 consecutive months. The sale or other transfer of the production, processing and distribution facilities of such person to another person shall not remove the performance requirement provided herein in connection with the operation of such facilities.

(c) *Cancellation.* The designation as a producer-handler shall be cancelled under any of the conditions set forth in subparagraphs (1), (2) and (3) of this paragraph or upon determination by the market administrator that any of the requirements of paragraph (b) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met:

(1) Milk from the designated production facilities and resources of the producer-handler is delivered in the name of another person as producer milk to another handler or, except in the months of August through February, with prior notice to the market administrator, a dairy herd, cattle barn or milking parlor is transferred to another person who uses such facilities or resources for producing milk which is delivered as producer milk to another handler. This provision, however, shall not be deemed to preclude the occasional sale of individual cows from the herd.

(2) A dairy herd, cattle barn or milking parlor, previously used for the production of milk delivered as producer milk to another handler, is added to the designated milk production facilities and resources of the producer-handler, except in the months of March through July, with prior notice to the market administrator, or if such facilities and resources were a part of the designated production facilities and resources during any of the preceding 12 months. This provision, however, shall not be deemed to preclude the occasional purchase of individual cows for the herd.

(3) The producer-handler handles whole milk, fluid skim milk or cream, in bulk or packaged, which is derived from sources other than the designated milk production facilities and resources.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant and farm location(s), of persons designated as producer-handlers, and those whose designations have been cancelled. Such announcements shall be controlling with respect to the accounting at plants of other handlers for milk received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler (and upon the applicant for such designation) to establish through records required pursuant to § 925.33 that the requirements set forth in paragraph (b) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 925.30 [Amendment]

6a. Delete from § 925.30 the phrase ", except a producer-handler,".

6b. Replace the semi-colon in § 925.30 (a) with a comma, and add after the word "producers" the phrase: "including as a separate amount any milk of own farm production;"

§ 925.31 [Amendment]

7. Insert in the lead sentence of § 925.31 after the word "deliveries" the parenthetical phrase "(other than his own farm production)".

8. Delete § 925.32 in its entirety and substitute therefor the following:

§ 925.32 Other reports.

At such times and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under § 925.30 as

may be requested by the market administrator with respect to milk and milk products handled by him.

9. Add to § 925.33 prior to the reference "§ 925.30" the reference "§ 925.16,"

§ 925.41 [Amendment]

10a. Delete from § 925.41(a)(1) the phrase "and used in the production of concentrated milk, flavored milk and flavored drinks not sterilized" and substitute therefor the following: "and used in the production of concentrated milk, skim milk, flavored milk and flavored milk drinks".

b. Delete § 925.41(a)(1)(ii) and substitute therefor the following:

(ii) Any milk or milk product sterilized and packaged in hermetically sealed metal containers; and

c. Delete § 925.41(a)(2) and substitute therefor the following:

(2) Disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes disposed of to a commercial processor, cocoa mixes, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt);

d. Delete § 925.41(b)(1) and substitute therefor the following:

(1) Disposed of (i) as (or used to produce, in the case of ice cream and frozen desserts and mixes for such products (liquid or powder), cottage cheese, cocoa mixes, and aerated cream products) any product other than those included under paragraph (a)(1) and (2) of this section; or (ii) as milk or any milk product sterilized and packaged in hermetically sealed metal containers,

11. Delete § 925.44 in its entirety and substitute therefor the following:

§ 925.44 **Interplant movements.**

Skim milk and butterfat moved by transfer, and by diversion under paragraph (c) of this section, as any item specified in § 925.41(a) in other than packaged form from a fluid milk plant or country plant shall be assigned (separately) to each class in the following manner:

(a) To a fluid milk plant: As Class I milk to the extent Class I milk is available at the transferee-plant, subject to the following provisions:

(1) In the event the quantity transferred exceeds the total of receipts from producers and other handlers at the transferor-plant, such excess shall be assigned last to the Class I available at the transferee-plant;

(2) If more than one transferor-plant is involved, the available Class I milk shall be assigned to the transferor-plants in the following order.

(i) To fluid milk plants located in District No. 1;

(ii) To country plants located in District No. 1 or Pierce County;

(iii) To fluid milk plants located in District No. 4;

(iv) To country plants located in District No. 4;

(v) To fluid milk plants in District No. 3;

(vi) To country plants located in District No. 3;

(vii) To fluid milk plants located in District No. 2;

(viii) To country plants located in District No. 2 or Kittitas County;

(ix) To country plants located in Clallam County or Jefferson County; and

(x) To country plants not located in the marketing area, Kittitas County, Clallam County, Jefferson County or Pierce County.

(3) If Class I is not available in amounts equal to the sum of the quantities to be assigned pursuant to subparagraph (2) of this paragraph, the transferee-handler may designate, within each of the ten categories of plants listed in such subparagraph the plant(s), to which the available Class I milk shall be assigned;

(4) If at a fluid milk plant any receipts of skim milk or butterfat from any fluid milk plant(s) or country plant(s) located in District No. 1 or Pierce County are assigned to Class II milk, they shall be allocated, as designated by the transferee-handler, to the uses stated in § 925.54(a) insofar as such uses are available at the transferee-plant after allocating to such uses the other source milk at such plant; and

(5) Notwithstanding the prior provisions of this paragraph any such skim milk and butterfat caused to be moved in bulk by a handler during any month from any fluid milk plant or country plant by transfer to a fluid milk plant in which facilities are maintained and used during the same month to receive milk or milk products required by applicable health authority regulations to be kept physically separate from milk qualified as described in § 925.12 shall be deemed to have been transferred by such handler to a country plant, and shall be classified in accordance with the provisions of this paragraph.

(b) To a country plant: As Class II milk, subject to the following conditions:

(1) The skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the transferee-plant after the subtraction pursuant to § 925.45(b)(2) of other source milk at such plant and after the subtraction of producer shrinkage classified as Class II milk pursuant to § 925.41(b)(4), and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk;

(2) If more than one transferor-plant is involved, the available Class II milk shall be assigned to the transferor-plant in the following order:

(i) To country plants not located in the marketing area, Clallam County, Jefferson County, Kittitas County or Pierce County;

(ii) To country plants located in Clallam County or Jefferson County;

(iii) To country plants in District No. 2 and Kittitas County;

(iv) To fluid milk plants in District No. 2;

(v) To country plants in District No. 3;

(vi) To fluid milk plants in District No. 3;

(vii) To country plants in District No. 4;

(viii) To fluid milk plants in District No. 4;

(ix) To country plants located in District No. 1 or Pierce County; and

(x) To fluid milk plants located in District No. 1.

(3) If Class II milk is not available in amounts equal to the sum of the quantities to be assigned pursuant to paragraph (2) of this paragraph, the transferee-handler may designate, within each of the ten categories of plants listed in such subparagraph the plant(s) to which the available Class II milk shall be assigned; and

(4) If at a country plant any receipts of skim milk or butterfat from any fluid milk plant(s) or country plant(s) located in District No. 1 or Pierce County are assigned to Class II milk, they shall be allocated, as designated by the transferee-handler, to the uses stated in § 925.54(a) insofar as such uses are available at the transferee-plant after allocating to such uses the other source milk at such plant.

(c) To a nonpool plant:

(1) As Class I milk if the transfer or diversion is to a nonpool plant located outside the marketing area or to the plant of a person holding designation as a producer-handler at the time of the transfer or diversion, except as provided for in subparagraphs (2) and (3) of this paragraph.

(2) As Class II milk if the transfer or diversion is to a nonpool plant located in the marketing area or within any of the counties of Clallam, Jefferson, Grays Harbor, Pierce and Island, in the State of Washington, which is not engaged in the distribution of milk for consumption in fluid form: *Provided,* That if such nonpool plant disposes of skim milk or butterfat in any of the forms specified in § 925.41(a) to any other nonpool plant distributing milk in fluid form, such disposition up to the quantity of producer milk transferred or diverted to the first nonpool plant shall be classified as Class I milk: *Provided further,* That if the preceding proviso does not apply the transferred or diverted quantity shall be allocated to uses other than those covered by § 925.54(a) to the extent that such other Class II milk uses are available at such nonpool plant: *And provided also,* That if the market administrator is not permitted to audit the records of such nonpool plant for the purpose of use verification, the entire transfer shall be classified as Class I milk.

(3) As Class II milk to the extent of milk available in equivalent uses in the transferee-plant pursuant to the classification and allocation provisions applicable to milk therein, if the transfer or diversion is to a plant in which the handling of some milk is subject to the class price provisions of another Federal order.

§ 925.45 [Amendment]

12a. Delete from § 925.45(a) the phrase "any other product condensed from skim milk" and substitute therefor the phrase "any other product condensed from milk or skim milk".

b. Add to § 925.45(a)(1) following the word "other" the words "Class I".

§ 925.50 [Amendment]

13. Delete from the list of plants and places set forth in § 925.50(a) the following:

Pet Milk Company, Hudson, Mich.
Carnation Company, Chilton, Wis.
Carnation Company, Berlin, Wis.

14. Delete § 925.53 in its entirety and substitute therefor the following:

§ 925.53 Location adjustments on Class I milk.

The price of Class I milk at each plant not located in District I or Pierce County shall be, regardless of point of disposition within or outside the marketing area, the Class I price pursuant to § 925.51 less a location differential for such plant shown in the table below:

Plant location	*Class I price differentials (cents per hundredweight)*
District I or Pierce County	0
District 4	15
District 3	20
District 2 or Kittitas County	25
Clallam County and Jefferson County	35
Other locations outside the marketing area	40

§ 925.54 [Amendment]

15a. Delete from the first sentence of § 925.54 following the words "in District No. 1 or in" the phrase "the counties of Kitsap and Mason", and substitute therefor the words "Pierce County".

b. Delete in § 925.54(a)(2) the phrase "located in District No. 1 or in the counties of Kitsap and Mason".

c. Delete in § 925.54(c) the phrase "or in the counties of Kitsap and Mason" and substitute therefor the words "Pierce County".

§ 925.60 [Amendment]

16. Delete § 925.60 (a) and (b) and substitute therefore the following:

(a) The daily base of each producer whose milk was received by a handler(s) on not less than one hundred twenty (120) days during the months of August through December, inclusive, shall be an amount computed by dividing such producer's total pounds of milk delivered in such five-month period by the number of days from the date of his first delivery to the end of such five-month period. The base so computed, which shall be recomputed each year, shall become effective on the first day of February next following and shall remain in effect through the month of January of the next succeeding year: *Provided,* That for any dairy farmer for whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of (1) the plant to which his milk was delivered during the base-earning period subsequently being qualified as a fluid milk plant or country plant (including any plant so qualified through extension of the marketing area), or (2) cancellation of a producer-handler's designation as such, a daily base shall be computed pursuant to this paragraph.

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have a monthly base computed by multiplying his deliveries to a handler(s) during the month by the appropriate monthly percentage in the following table:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

17. Delete § 925.61(a) in its entirety and substitute therefor the following:

§ 925.61 Base rules.

The following rules shall be observed in determination of bases:

(a) A base may be transferred upon written notice to the market administrator on or before the last day of the month of transfer, but under the following circumstances only: If a producer who earned a base pursuant to § 925.60 (a) sells, leases, or otherwise conveys his herd to another producer, the latter may receive the transferor's base, pursuant to the conveyance and utilize such base for the remainder of the period for which such base is effective pursuant to § 925.60(a), subject to the following conditions:

(1) Such base shall apply to deliveries of milk by the transferee-producer from the same farm only;

(2) If such conveyance takes place subsequent to August 1 of any year, all milk delivered to a handler(s) between August 1 and the last day of the base-earning period as specified in § 925.60(a), inclusive, from the same farm (whether by the transferor or transferee-producer) shall be utilized in computing the base of the transferee-producer pursuant to § 925.60(a);

(3) It is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this order; and

(4) Notwithstanding subparagraphs (1) and (2) of this paragraph, but in compliance with subparagraph (3) of this paragraph, the base may be transferred to a member of the immediate family of the base-holder and, in the event of the base-holder's death, to a member of his immediate family, or to the estate of the base-holder and in turn to one outside party.

§ 925.61 [Amendment]

18a. Delete from § 925.61(b) the phrase "under § 925.60(a) to begin the next February 1" and substitute therefor the following: "in the manner provided in § 925.60(a)".

b. Delete from § 925.61(c) the phrase "next February 1" and substitute therefor the phrase "close of the period, pursuant to § 925.60(a), for which such base was computed".

§ 925.70 [Amendment]

19a. Delete § 925.70(a)(6) in its entirety and substitute therefor the following:

(6) Add, with respect to other source milk (including overage allocated to other source milk) received at each fluid milk plant and country plant of such handler in excess of the total pounds of his Class II milk (except allowable shrinkage) at such plant, an amount computed by multiplying the hundredweight of such other source milk by the difference between the Class I milk and Class II milk prices adjusted, respectively, by the butterfat differentials provided in § 925.52 (based on the butterfat test of such other source milk), and in the case of a fluid milk plant or country plant not located in District 1 or Pierce County, such difference shall be reduced in accordance with the per hundredweight rates specified for Class I milk in the table set forth in § 925.53.

b. Delete from § 925.70(b) the phrase "by 30 cents, 40 cents and 20 cents per hundredweight, respectively" and substitute therefor the following: "in accordance with the respective per hundredweight rates specified for Class I milk in the table set forth in § 925.53".

§ 925.81 [Amendment]

20a. Delete § 925.81(a) in its entirety and substitute therefor the following:

(a) Deductions may be made per hundredweight of base milk received from producers at respective plant locations at the same per hundredweight rates as specified for Class I milk in the table set forth in § 925.53.

b. Delete in § 925.81(b) the phrase "the counties of Kitsap and Mason" and substitute therefor "Pierce County".

30. Delete § 925.102 in its entirety and substitute therefor the following:

§ 925.102 Producers-handlers.

Sections 925.40 to 925.45, inclusive, §§ 925.50 to 925.55, inclusive, 925.60 to 925.61, inclusive, 925.70 to 925.71, inclusive, and 925.80 to 925.89, inclusive, shall not apply to a producer-handler.

Issued at Washington, D.C., this 23d day of April 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-3579; Filed, Apr. 27, 1959; 8:47 a. m.]

[7 CFR Part 943]

[Docket No. AO-231-A11]

MILK IN NORTH TEXAS MARKETING AREA

Decision With Respect to Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the for-

mulation of marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held at Dallas, Texas, on December 15–16, 1958, pursuant to notice thereof issued on December 2, 1958 (23 F.R. 9457).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on March 16, 1959 (24 F.R. 2087) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

A separate decision dealing with the elimination of a reclassification charge on fluid milk products in inventory which previously have been classified and priced as Class I milk under the order or another Federal order was issued on January 2, 1959 (24 F.R. 215) and an amendment to the order incorporating the recommendations of such decision became effective on January 15, 1959.

The remaining issues relate to:

1. Adding Murray County, Oklahoma, to those counties previously designated in the order, in which milk may be classified as Class II if transferred or diverted for manufacture into nonfluid milk products;

2. Modifying the classification provisions relating to sour cream, shrinkage, and skim milk and butterfat disposed of for animal feed;

3. Expanding the definition of handler to include (a) brokers, and (b) a cooperative association with respect to bulk tank milk of its member producers which it delivers from the farm to the pool plant of another handler;

4. Revising the method of computing skim milk and butterfat used in each class for fortifying milk products; and

5. Revising the transfer provisions relating to cream.

Findings and conclusions. The following findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof:

1. The transfer provision in the order should be amended to add Murray County, Oklahoma, to the list of counties to which milk is permitted to be transferred or diverted for manufacturing uses and classified as Class II milk. The order provides that any milk shipped outside certain specified counties in fluid form shall be automatically classified as Class I milk.

Reserve supplies of milk for the market have increased considerably in recent months. Milk manufacturing facilities in the above-mentioned area designated in the order until recently were adequate to process such reserves. They are now inadequate to accommodate the increased supplies and it, therefore, is necessary to provide for an extension of the area to which milk may be moved for manufacture without being automatically subject to the Class I classification.

A large milk manufacturing plant is located in Murray County at Sulphur, Oklahoma. Its manufacturing facilities, in addition to those available in the nonpool plants in the counties previously provided for in the transfer provisions of the order, should be adequate to accommodate the increased reserve supplies of milk. The location of the Sulphur, Oklahoma, plant, moreover, is such that milk from producers located in Murray and in neighboring counties, when it is not needed for Class I use in the North Texas market, can be diverted to this nonpool plant more conveniently than to plants in the other designated counties.

To provide the immediate relief shown by the record to be necessary pending amendatory action on the issue, a suspension order was issued on December 23, 1958. That order suspended the transfer provisions which limited the area within which milk could be transferred or diverted to nonpool plants for manufacturing and be permitted the Class II classification. This permitted producer milk which was moved to and manufactured in nonpool plants anywhere to receive the Class II classification.

It is concluded that the provisions of the order suspended on December 23, 1958, should be re-instated and that Murray County, Oklahoma, should be added to the list of counties designated therein.

2. Skim milk and butterfat used to produce cultured sour cream and skim milk and butterfat disposed of in the form of fluid milk products for use as animal feed should be classified as Class II milk. The allocation of shrinkage classified as Class II milk should be changed.

When the order was drafted, skim milk and butterfat disposed of as cultured sour cream were required to come from Grade A milk. As a consequence, cultured sour cream received a Class I milk product classification. Since then, cultured sour cream products, which are permitted to be made from ungraded milk and which are Class II milk in other markets, have been marketed in the North Texas area by handlers in St. Louis and other markets. Such products were permitted to be sold under such labels as "dairy dressing" or "food dressing", as long as the words "sour cream" were not used.

The city of Dallas now permits sour cream from ungraded sources to be sold in containers labeled with the words "sour cream", if the word "dressing" appears in equal prominence on the label. Much of the cultured sour cream from outside areas marketed in North Texas now is sold as "Sour cream dressing". Since this product is made from ungraded milk or from milk which is priced as Class II milk, North Texas handlers who must pay a Class I price for milk disposed of in the same product are at a decided competitive disadvantage and are losing their market to outside suppliers.

In view of the above-described circumstances, it is concluded that skim milk and butterfat used to produce cultured sour cream should be classified as Class II milk.

The present terms of the order provide for the classification as Class II milk of shrinkage up to 2 percent of the skim milk and butterfat in receipts from producers and of shrinkage of other source milk received in the form of fluid milk products. Such classification applies to the first handler who physically receives the milk.

Under the present provisions, the shrinkage classification would apply to milk from producers received at a supply plant, but not to bulk milk which a distributing plant receives through transfer from a supply plant.

A producers' association proposed changing the provision to allocate part of the shrinkage tolerance to the pool plant which first receives the milk from producers and part to the distributing plant to which such milk is transferred in bulk form for processing. It was stated that experience showed that an allowance of one-half of one percent was adequate to accommodate shrinkage losses incurred in performing receiving station functions, but that up to one and one-half percent should be permitted on the milk at the distributing plant since most of the loss generally is incurred in the processing of the milk.

No testimony was offered in opposition to the proposal. This method of prorating shrinkage between plants is in wide use in other markets and it is concluded that the proposal should be adopted. Thus, provision should be made to classify as Class II milk, skim milk and butterfat in shrinkage allocated to receipts of milk of producers in an amount not greater than one-half of one percent of the total receipts of skim milk and butterfat received directly from producers' farms plus one and one-half percent of the total pounds of skim milk and butterfat in milk received in bulk in fluid form at a pool plant from both producers and other pool plants and which are not disposed of in bulk form to the pool plant of another handler.

The order also should be amended to provide that, in certain circumstances, skim milk and butterfat disposed of in the form of fluid milk products for use as animal feed may be classified as Class II milk up to one-half of one percent of the volume of skim milk and butterfat in fluid milk products disposed of in fluid form.

A similar provision was contained in the original order. It was deleted in September 1957 following a hearing at which no testimony was presented in favor of its retention. Since that time handlers have found that the two percent shrinkage allowance has been inadequate to cover both the normal loss incurred in plant operations and the volume of route returns which cannot be reused for human consumption.

Route returns and products spoiled in processing which cannot be reused for human consumption have some salvage value when sold to farmers for livestock feed. Handlers urged that such disposition be classified as Class II milk so that they would be in a position to recover at least something on such products. Approximately one-half of one percent of the fluid milk products processed fall in this category. Accordingly, it is concluded that up to one-half of one percent of the fluid products processed may be classified as Class II when dis-

posed of for animal feed if certain conditions are met.

To prevent abuse of this classification privilege the handler should be required to keep detailed records of the amount of product to be so disposed of, to notify the market administrator prior to such disposition so that he can physically verify the volume, and to furnish a receipt signed by the purchaser of such products setting forth the details of the transaction. If all of the foregoing conditions are complied with, the product so disposed of will be classified as Class II in an amount not in excess of one-half of one percent of the total fluid milk products processed.

3. The handler definition should be modified to include a cooperative association with respect to bulk tank milk which it delivers directly from the farms of its members to the pool plant of another handler, if it desires to assume the obligations placed on handlers by the order of accounting to the pool and making payments to producers with respect to such milk.

Under the present order a cooperative association is a handler with respect to producer milk which it diverts directly from its producer members' farms to the pool plant of another handler for any period of less than a month. Making a cooperative association a handler with respect to the bulk tank milk of its producer members which it delivers directly from their farms to pool plants of other handlers would eliminate many of the administrative problems which are being created by the rapid conversion of dairymen to bulk tanks and would assist the cooperative association in more effectively balancing the supply of milk to the needs of handlers in the market.

The transportation of milk from farm to market in bulk tank trucks operated by a cooperative has created a problem relative to the determination of responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed and a sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant has the responsibility for paying either the individual producer, or the cooperative where authorized, for the pounds of milk received at the determined butterfat test.

In the bulk tank assembly of milk, the weights and samples of milk for butterfat testing are taken at the farms and milk of various farmers is commingled at the farms. When these tank trucks are owned and/or operated under the control of a cooperative association, the weight readings and milk samples for the butterfat testing are taken by persons responsible to the association. Thus, the handler to whom such milk is delivered has no way of knowing the weights and butterfat tests of milk of individual producers whose deliveries made up the load, except as such information is reported to him by the association. In some instances, especially with respect to supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

One of the cooperative associations which furnishes milk in bulk tanks to other handlers in the market urged the adoption of the proposal. The other association which is similarly situated took no position with respect to it.

Up to the present time the problems created by the conversion to bulk tank have not been serious in the North Texas market and the cooperative associations and the handlers have ironed out any differences that have occurred. As the trend continues, however, the problems will become more serious. In view of the market experience to date it is concluded that the proposal should be adopted, but on a permissive basis at the present time. A cooperative association which wishes to become the handler for the milk of its member producers which it causes to be delivered in bulk tanks directly from producers' farms to the pool plants of other handlers will be so considered if it notifies the market administrator in writing to that effect. The cooperative association should also notify the handler to whom the milk is delivered of its decision at the same time that it notifies the market administrator. Otherwise, the handler at whose pool plant the milk is received will continue to be accountable for it under the order and responsible for payments to producers.

One of the factors which led the cooperative association to request handler status with respect to milk in bulk tanks was the problem created by the shrinkage that occurs between the farm and plant when milk is hauled in bulk. Because of limited experience they were unable to establish the amount of shrinkage incurred in bulk tank handling, but indicated the need for establishing some division of the two percent shrinkage permitted between the cooperative association and the handler who processes the milk.

Pending further information based upon actual operations, it is concluded that with respect to milk in bulk tanks delivered to plants of other handlers and for which the cooperative association elects to be the handler, the cooperative association should be entitled to shrinkage up to one-half of one percent and the processing plant to shrinkage up to one and one-half percent. With respect to milk so handled and for which the cooperative association is not the handler, the operator of the plant at which the milk is received would be obligated to account to producers at the reported farm weights. Thus, the cooperative association in such instances would incur no loss and the plant of receipt should be permitted the entire shrinkage on such milk up to a maximum of 2 percent.

With respect to bulk tank milk for which the cooperative association is not the handler, the operator of the pool plant at which the milk is received will continue to pay producers through the cooperative association at the uniform price. For milk for which the cooperative association is the handler, the operator of the pool plant at which it is received will be obligated to pay the cooperative association the applicable class prices for such milk.

The definition of the term "handler" should not be broadened to include and to extend regulation to those persons who are not engaged in the processing of milk and incur no obligations to the pool under the order but who may supply pool plants with other source milk, in the form of either fluid milk products or products which may be reconstituted into fluid milk products.

In some instances handlers have purchased powdered or condensed milk, to fortify skim milk drinks and possibly for reconstitution, and the purchase has been invoiced to the handler as a nondairy product. Verification of the receipts and utilization of such products is time consuming and vexatious and unduly burdens the auditing procedures of the market administrator. Extending regulation to brokers who are suppliers of handlers undoubtedly would be helpful to the market administrator in verifying receipts and utilization of milk; however, in instances involving doubt as to the accuracy of the accounting for milk on the part of a handler, proper classification may be assured through intensive investigations on the premises and in audit procedures. While this is a costly process and may increase substantially the amounts expended by the market administrator in auditing and verifying handlers' reports, the prevalence of such practice is not sufficiently great to warrant extending regulation at this time to persons who do not receive or handle milk of producers and who would have no financial obligations under the order even if regulated.

4. The proposal to revise the method of computing skim milk and butterfat used in each class for fortifying milk products by accounting only for the pounds of products actually added should be denied.

In computing the pounds of skim milk and butterfat in each class, the order now provides that if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

Some handlers in the market have manufacturing facilities for making condensed skim milk products for use in their plants or for disposition to other handlers as condensed skim milk. Other handlers purchase nonfat dry milk from other sources. Such solids in condensed form are used in the reconstitution of fluid milk products or in the fortification of skim milk drinks.

These Class I products are fortified by the addition of extra solids to improve their quality and their acceptance by consumers. The health regulations require that such solids be made from Grade A milk, thus, they should be classified as Class I milk the same as all other Class I solids. The value of each pound of nonfat solids utilized in Class I products has a value to the handler the same as every other pound contained therein. Neither the form in which, nor the source

from which, such solids are obtained alters their value to the handler for this purpose. Solids contained in producer skim milk are in fluid form and are paid for on the basis of all the water originally associated with such solids. To account for skim milk in powder or condensed form on a comparable basis to that used in accounting for regular skim milk, it is necessary to account for such solids on the basis of the quantity of skim milk necessarily used to produce such solids.

It is concluded that the present method of computing the skim milk and butterfat used in each class should be continued.

5. No change should be made with respect to the transfer provisions in the order relating to cream. The testimony in the record is not clear as to what was sought to be accomplished by the proposal and affords no basis for changing them at the present time.

With respect to the above-recommended changes in the order, conforming changes should be made in §§ 943.42 (b), 943.44, and 943.46(a)(1) dealing with shrinkage proration, transfer, and allocation procedure references. In addition, the sequence of subparagraphs (9) and (10) of § 943.46(a) should be reversed to insure a distributing plant's receiving credit for shrinkage incurred on milk received in bulk from another handler.

No testimony was presented relative to the other proposals contained in the notice of hearing and, therefore, no consideration has been given to them.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the North Texas Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the North Texas Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of February 1959 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the North Texas marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 23d day of April 1959.

[SEAL] CLARENCE L. MILLER,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the North Texas Marketing Area

§ 943.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the North Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the North Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Amend § 943.12 by adding thereto the following as paragraph (d):

(d) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing that it wishes to be the handler for such milk. The cooperative association shall be considered the handler for such milk, effective the first day of the month following receipt of such notice, and milk so delivered shall be considered to have been received by such cooperative association at the pool plant to which it is delivered, except that such milk shall be considered as a receipt of producer milk by the operator of such pool plant for the purpose of § 943.46 (a)(5) and the proviso in § 943.53.

2. Amend § 943.44 (c) and (d) to read as follows:

(c) As Class I milk if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant located (1) outside the marketing area and (2) outside the counties of Barry, Cedar, Greene, Lawrence, Polk, Newton, and McDonald in the State of Missouri; Erath, Titus, Runnels, Fayette, Cherokee, and Wood in the State of Texas; Carter, Cleveland, Comanche, Grady, Murray,

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

and Muskogee in the State of Oklahoma; and Benton, Franklin, Sebastian, and Scott in the State of Arkansas.

(d) As Class I milk if transferred or diverted in the form of milk or skim milk in bulk to a nonpool plant located inside the marketing area or inside any of the counties named in paragraph (c) of this section unless:

(1) The handler claims classification as Class II milk in his report submitted pursuant to § 943.30;

(2) The operator of the nonpool plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification;

(3) The classification reported by the handler results in an amount of Class I skim milk and butterfat claimed by all handlers transferring or diverting milk to such plant of not less than the amount of assignable Class I milk remaining after the following computation:

(i) From the total skim milk and butterfat, respectively, in fluid milk products disposed of from such nonpool plant, subtract the pounds of skim milk and butterfat in packaged fluid milk products received at such plant and the skim milk and butterfat received at such plant directly from dairy farmers who the market administrator determines constitute the regular source of supply for such fluid milk products for such nonpool plant;

(ii) From the remainder, subtract the skim milk and butterfat disposed of in the form of bulk cream by such plant to a second plant if it is established that such cream was disposed of as an ungraded product for manufacturing use with each container so tagged and such shipment(s) is so invoiced;

(4) If the skim milk and butterfat transferred by all handlers to such a nonpool plant and reported as Class I milk pursuant to this paragraph is less than the skim milk and butterfat assignable to Class I milk pursuant to subparagraph (3), an equivalent amount of skim milk and butterfat shall be reclassified as Class I milk pro rata in accordance with the claimed Class II classification reported by each of such handlers;

3. Amend § 943.41(a)(1) to read as follows:

(1) Disposed of in the form of milk, skim milk, buttermilk, flavored milk drinks, cream (except cultured sour cream), and any mixture (except eggnog and bulk ice cream and frozen dairy product mixes) of cream and milk or skim milk;

4. Renumber § 943.41(b)(5) as § 943.41(b)(6), and delete § 943.41(b)(4) and substitute therefor the following:

(4) Disposed of in the form of fluid milk products for use as animal feed if all the following conditions are met: (i) The market administrator is notified, prior to such disposition, of the time the disposition is to be made so that he or his representative may physically verify the disposition; (ii) records are maintained to show the source, availability, butterfat content and volume of each product composing each lot of the aggregate to be disposed of for animal feed and the total butterfat content and volume of each lot of the aggregate product; (iii) each disposition is documented in duplicate by a separate record in a form approved by the market administrator showing disposition date, volume disposed of and the name of the person to whom it is disposed and his or his representative's signature, one copy of which is mailed or delivered to the market administrator on or before the second day after the date of such disposition; and (iv) the volume of skim milk and butterfat classified as Class II pursuant to this paragraph shall not exceed 0.5 percent of the volume of skim milk and butterfat in fluid milk products disposed of in fluid form;

(5) In shrinkage allocated to: (i) Receipts of other source milk in the form of fluid milk products, (ii) receipts of milk of producers in an amount not to exceed 0.5 percent of the total receipts of skim milk and butterfat physically received from producers' farms by the operator of a pool plant, plus one and one-half percent of the total pounds of skim milk and butterfat in milk of producers received in bulk as milk in fluid form at a pool plant from both producers and other pool plants (including milk received from a cooperative association in its capacity as a handler pursuant to § 943.12 (c) and (d) and which are not disposed of in bulk as milk in fluid form to the pool plant of another handler.

5. Delete § 943.42(b) and substitute therefor the following:

(b) Prorate the resulting amounts between (1) the total of the pounds of skim milk and butterfat physically received from producers at a pool plant by the operator of such pool plant, plus the pounds of skim milk and butterfat in milk of producers received in bulk as milk in fluid form from other pool plants (including milk received from a cooperative association in its capacity as a handler pursuant to § 943.12 (c) and (d), and (2) the pounds of skim milk and butterfat in other source milk received in the form of fluid milk products.

6. Amend § 943.46(a)(1) by changing the reference therein from "§ 943.41(b)(4)" to "§ 943.41(b)(5)(ii)".

7. Amend § 943.44 by changing the reference therein from "§ 943.12(c)" to "§ 943.12(c) and (d)".

8. Amend § 943.46(a) by reversing the order of subparagraphs (9) and (10) and renumbering accordingly.

[F.R. Doc. 59-3578; Filed, Apr. 27, 1959; 8:47 a.m.]

[7 CFR Part 1008]

[Docket No. AO-275-A5]

MILK IN INLAND EMPIRE MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Spokane County Court House, West 1116 Broadway, Spokane, Washington, beginning at 10:00 a.m., local time, on May 13, 1959, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Inland Empire marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Spokane Milk Producers Association:

§ 1008.15 [Amendment]

Proposal No. 1. In § 1008.15(b), after the phrase "nonpool plant" add the phrase "or another pool plant".

Proposed by the Spokane Milk Producers Association and Inland Empire Dairy Association:

Proposal No. 2. Delete § 1008.53 and substitute therefor the following:

§ 1008.53 Location adjustments credits to handlers.

The price for Class I milk at a pool plant located more than 100 miles from the City Hall, Spokane, Washington, shall be, regardless of point of sale within or outside the marketing area, the same as the Class I price pursuant to § 1008.51 (a), less a location adjustment per hundredweight of milk computed as follows: 100 to 125 miles, 25 cents cwt; 126 to 150 miles, 30 cents; 151 to 175 miles, 35 cents; 176 to 200 miles, 40 cents; over 200 miles, 40 cents plus an additional 1 cent for each 10 miles or major fraction thereof. All mileage will be by the shortest hard-surfaced highway distance, as determined by the market administrator, from such pool plant to the City Hall, Spokane, Washington.

§ 1008.60 [Amendment]

Proposal No. 3. Revise § 1008.60(b) by substituting the following monthly percentages for those now set forth in such provision:

January	75	July	60
February	70	August	70
March	65	September	75
April	60	October	80
May	60	November	80
June	60	December	75

§ 1008.51 [Amendment]

Proposal No. 4. a. Delete § 1008.51 (d)(4) and substitute therefor the following:

(4) Compute a "Net Deviation Percentage" as follows:

(i) If the current supply-demand ratio is neither less than the minimum standard utilization percentage specified in the table below nor in excess of the

maximum standard utilization percentage specified in the table below, the net deviation percentage is zero.

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "Minus Net Deviation Percentage", and

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "Plus Net Deviation Percentage".

b. Insert the following minimum and maximum standard utilization percentages in table under § 1008.51(d)(4) in lieu of single standard utilization percentage now provided:

Pricing month	Standard utilization percentages	
	Minimum	Maximum
January	81	85
February	80	84
March	77	81
April	77	81
May	77	81
June	76	80
July	67	71
August	61	65
September	63	67
October	68	72
November	72	76
December	78	82

c. Add a new § 1008.51(d)(5) as follows:

(5) For a minus net deviation percentage the Class I price shall be decreased, and for a plus net deviation percentage the Class I price shall be increased, 3 cents for each net deviation percentage, except such Class I price shall not be increased or decreased more than 24 cents for any month because of the current supply-demand ratio.

§ 1008.88 [Amendment]

Proposal No. 5. In § 1008.88, delete the phrase "4 cents" as it twice appears and substitute therefor the phrase "5 cents".

Proposed by the Inland Empire Dairy Association:

Proposal No. 6. Provide that a pool plant be allowed to transfer milk to a nonpool plant, outside the marketing area, having Class I utilization, as a Class II transfer: *Provided,* That an audit of such nonpool plant, by the market administrator, shows that the nonpool plant had enough Grade A receipts from regular producers to supply its own Class I use.

Proposed by the Dairy Division, Agricultural Marketing Service:

§ 1008.8 [Amendment]

Proposal No. 7. Review § 1008.8 for clarification, by specifying "receipts of milk from producers" in lieu of "receipts of milk qualified as described in § 1008.11" wherever the latter appears in such section.

Proposal No. 8. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, West 933 Third Avenue, Room 212, Spokane, Washington, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 23d day of April 1959.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-3577; Filed, Apr. 27, 1959; 8:46 a.m.]

[7 CFR Part 1021]

TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the Texas Valley Tomato Committee, established pursuant to Marketing Order No. 121. Said marketing order regulates the handling of tomatoes grown in the counties of Cameron, Hidalgo, Starr, and Willacy in Texas (Lower Rio Grande Valley), and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31 as amended; 7 U.S.C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the FEDERAL REGISTER.

§ 1021.201 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Texas Valley Tomato Committee, established pursuant to this part (Marketing Order No. 121), to enable such committee to perform its functions pursuant to the provisions of the aforesaid marketing order, during the fiscal period ending February 29, 1960, will amount to $42,000.

(b) The rate of assessment to be paid by each handler, pursuant to this part (Marketing Order No. 121) shall be three cents ($0.03) per 60-pound crate of tomatoes, or the equivalent quantity thereof, handled by him as the first handler thereof during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in this part (Marketing Order No. 121).

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 22, 1959.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 59-3553; Filed, Apr. 27, 1959; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12858; FCC 59-386]

TELEVISION BROADCAST STATIONS

Table of Assignments; Milwaukee-Whitefish Bay, Wis.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has before it for consideration a petition filed on January 27, 1959, by Independent Television, Inc., licensee of Station WITI-TV on Channel 6 at Whitefish Bay, Wisconsin, requesting rule making to amend the television Table of Assignments, contained in § 3.606 of the Commission's rules and regulations, by shifting Channel 6 from Whitefish Bay to Milwaukee, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Whitefish Bay, Wis	6	
Milwaukee, Wis	4-, *10+, 12, 18+, 24+, 30	4-, 6, *10+, 12, 18+, 24+, 30

3. In support of its request, Independent Television states that Channel 6 was assigned to Whitefish Bay, a city with a population of 14,655 a few miles to the north of Milwaukee and within the Milwaukee Metropolitan urbanized area and district,[1] after rule making in Docket No. 10713 in December of 1953; that the then-existing rules governing mileage spacing requirements would not permit the assignment of Channel 6 to Milwaukee; that the Common Council of the City of Milwaukee supported the assignment of Channel 6 to Whitefish Bay in the proceeding in Docket No. 10713; that the amendments to the rules governing minimum separations adopted by the Commission in July of 1956 will now permit the assignment of Channel 6 to Milwaukee; and that the present transmitter site of Station WITI-TV complies with all mileage separation and other requirements of the rules for operation on Channel 6 at Milwaukee instead of Whitefish Bay. Petitioner contends that its Whitefish Bay station must compete with the Milwaukee television stations for audience and revenues and has been handicapped in not being able to identify itself as a Milwaukee station. It urges that similar shifts of channels from suburban communities to major cities, made possible by the amendments to the rules governing minimum separations, have been made by the Commission and that the public interest would be as fully served by the adoption of its proposal.

4. The Commission is of the view that rule making proceedings should be instituted in this matter in order that all interested parties may submit their views and relevant data.

5. Authority for the adoption of the proposed amendment herein is con-

[1] 1950 U.S. Census.

tained in sections 4(i), 301, 303 (c), (d), (f), and (r) and 307(b) of the Communications Act of 1934, as amended.

6. Any interested party who is of the view that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before May 22, 1959, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established.

7. Independent Television, Inc., is presently authorized to operate Station WITI-TV on Channel 6 at Whitefish Bay, Wisconsin, and the rule making proposal herein would shift this frequency to Milwaukee. In the event the Commission decides to amend the rules as proposed, the Commission will determine what further steps should be taken in light of this outstanding authorization.

8. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: April 22, 1959.

Released: April 23, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3562; Filed, Apr. 27, 1959; 8:45 a.m.]

[47 CFR Part 3]

[Docket No. 12859; FCC 59-385]

MODIFICATION OF OPTION TIME AND STATION'S RIGHT TO REJECT NETWORK PROGRAMS

Notice of Proposed Rule Making

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. By Public Law 112, 84th Congress, 1st session, the Commission was authorized and directed to conduct a study of radio and television network broadcasting. The study was formally instituted by the Commission's Delegation Order No. 10 of July 22, 1955 (FCC 55-810) which delegated to a Network Study Committee of four Commissioners the Commission's powers and jurisdiction to carry out the study. The purposes and objectives of the study were announced by the Network Study Committee in Public Notice (FCC 55M-977) and separate Order of November 21, 1955 (FCC 55M-978). A special Network Study Staff was organized to conduct the study.

3. On October 3, 1957, the Director of the Commission's Network Study Staff submitted to the Network Study Committee a Report on Network Broadcasting. The Report contained, among other matters, a study of the option time arrangements of the television networks operated by the American Broadcasting Co., Columbia Broadcasting System, and National Broadcasting Co., and of the right of affiliated stations to reject network programs under these arrangements. The Report recommended that option time be prohibited as contrary to the public interest. On January 9, 1958, the Commission issued a Notice of Public Hearing (FCC 58-37) in Docket No. 12285, in the matter of the Study of Radio and Television Network Broadcasting. A public hearing was held before the Commission en banc, commencing on March 3, 1958, for the purpose of affording interested parties an opportunity to comment on the findings, recommendations and conclusions contained in the Report on Network Broadcasting. Through this procedure the Commission has had the benefit of the views of interested persons and organizations in its consideration of the need for a revision of its rules and policies in the broadcast field. The parties appearing at the hearing were virtually unanimous in their opinion that the networking system, as it is known today, would be seriously eroded, if not destroyed, by the abolition of option time.

4. Subsequent to the completion of oral testimony in the hearing, the Commission prepared ultimate findings on the option time practice. The Commission found that optioning of time by affiliated stations to their networks is reasonably necessary to the successful conduct of network operations and is in the public interest. The Commission pointed out, however, that this does not necessarily mean that all of the features of the present option time arrangements are necessary to network operations. The findings were referred to the Department of Justice on January 14, 1959, for a formal opinion of the Attorney General on the applicability of the antitrust laws to the present option time practice. By letter of February 27, 1959, Victor R. Hansen, Assistant Attorney General in charge of the Antitrust Division, informed the Commission that in his opinion the referenced option time practice "runs afoul" of the Sherman Antitrust Act. The Commission's findings and the opinion of the Assistant Attorney General have been incorporated into the public record in Docket No. 12285.

5. At this time, the Commission proposes to institute a rule-making proceeding to consider the desirability of modifying the present Chain Broadcasting Rules relating to option time. These proposed rules are designed to improve substantially the competitive position of other groups as affected by option time, and the freedom of program selection of the station under its affiliation contract, while maintaining the essential features of the practice. The specific rule changes in § 3.658 (d) and (e) which the Commission proposes to consider involve the number of hours of option time, the application of option time to "straddle" programs, the period of advance notice required before the option may be exercised, and the station's right to reject network programs.

Amendments to § 3.658(d):

6. *Number of hours of option time.* Section 3.658(d) now provides in part that "No license shall be granted to a television broadcast station which options for network programs * * * more time than a total of 3 hours within each of four segments of the broadcast day, as herein described. The broadcast day is divided into four segments, as follows: 8 a.m. to 1 p.m.; 1 p.m. to 6 p.m.; 6 p.m. to 11 p.m.; 11 p.m. to 8 a.m." The Commission proposes to consider an amendment to this part of the rule to reduce from 3 to 2½ the total number of hours within each segment of the broadcast day which a station may option for network programs. An affiliated station may, as at present, accept any additional network programs offered wholly outside of the hours designated as option time, but may not option such time periods for network programs. This proposed rule change is intended to have the twofold purpose of: (a) Providing greater latitude to stations to select among alternative program sources during an additional half hour of time within each segment of the broadcast day; and, correspondingly, of (b) providing non-network groups (program suppliers, station representatives, and local, regional, or national advertisers) with the opportunity to gain access to an additional period of prime time within each segment on an equal basis to the networks and network advertisers.

7. *Straddle programs.* Certain network programs, commonly referred to as "straddle" programs, originate in time periods designated in the network affiliation contract as option time and extend into non-option time, or originate in non-option time and extend into the time periods designated as option time. For example, under present rules, a station and network may have agreed upon the hours of 7:30 p.m. to 10:30 p.m. as option time within the 6 p.m. to 11 p.m. segment. The network, on one or more evenings of the week, may be telecasting a single hour-long program, such as a popular dramatic program, which the station has agreed to carry and which begins at 10 p.m. and ends at 11 p.m., thus straddling both option and non-option (station) time. The Commission proposes to consider the addition of a note to § 3.658(d) which would prevent these "straddle" programs from having the effect of extending network programming into non-option time periods.

8. The present Commission rules make no reference to "straddle" programs. One television network has stated that it considers its option right to apply to that portion of the program falling within the option time hours (e.g. 10-10:30 p.m.) but not to the remainder of the program (e.g. 10:30-11 p.m.). The other two television networks have stated that they consider that option time does not apply to any part of such a program. In practice, it may be difficult, if not impossible, for the station to divide a single program of drama or variety into

two segments so that it could accept and carry that portion falling within the option time hours and not the remainder of the program, if it wished to do so. Also, even if some of the networks do not technically seek to exercise option rights against any part of such straddle programs, in practice most stations tend to accept them, for several reasons: the programs have generally been very popular, the stations must decide to accept or reject the programs as single units, and the programs originate during time periods traditionally occupied by network programming under the option time agreement. It has been alleged, therefore, that the practical effect of "straddle" programs is to extend network programming into station time periods.

9. The Commission proposes to consider adding a note to § 3.658(d) to indicate that, in determining the number of hours of option time, any network program which begins during the hours agreed upon by the network and station as option time and extends into non-option time, or which begins during non-option time and extends into the hours agreed upon as option time shall be considered as falling entirely within option time. Under this proposed construction of the rule, for example, a station which has already optioned to a network or networks the 7:30–10:30 p.m. period could not agree to accept and carry a "straddle" program extending from 10 to 11 p.m. without exceeding the maximum number of hours permitted by the Commission rule. This proposed interpretation of § 3.658(d) would not make it impossible for a station to carry such a program. In order to do so, however, the station and network would have to remove a half-hour period of time within the same segment (as, for example, 7:30–8 p.m.) from the network's option agreement. The station could carry network programming during the 7:30–8 p.m. period, but could not agree to option the time to the network. The network's option hours, in the example in question, would thus be changed from 7:30–10:30 p.m. to 8:00–11:00 p.m., and there would be no extension of network programming into a station time period since the former "straddle" program would now fall entirely within option time.

10. The Commission recognizes that there are certain live network programs of national importance involving educational, cultural or public affairs, special events, or sporting events which, because of their length necessarily straddle option and station time, and which it would be in the public interest for stations to broadcast as a unit or at the time the events take place. Because of the length of such programs or the fact that the programs can only be broadcast when the event takes place, inclusion of the program as a whole in option time might result in the station exceeding the maximum permissible number of hours of option time in the time segment, or might prevent the station from optioning any other time for network programs in the same time segment. The Commission therefore proposes to make an exception for programs of this type. This exception would not apply to dramatic programs of an entertainment variety, the length and time scheduling of which are under the control of the networks so that the programs can be broadcast to fall entirely within the regular option time hours.

11. *Length of notice.* Section 3.658(d) also provides in part that "No license shall be granted to a television broadcast station which options for network programs any time subject to call on less than 56 days' notice * * *". The Commission proposes to consider an amendment to § 3.658(d) which would introduce more flexibility into the required period of advance notice before a network may exercise its option, in order to take into account a variety of situations that may occur in practice. The proposed amendment is designed to provide the station and advertiser with more protection against the network's exercise of its option time rights to pre-empt a non-network program then being broadcast or scheduled shortly to be broadcast in the time period. This protection would extend up to a maximum of 13 weeks of the program. At the same time, the amendment would enable the network to exercise its option on less advance notice than the present 8 weeks, in situations where this would not result in the pre-emption of a non-network commercial program currently being broadcast or scheduled shortly to be broadcast in the time period. An advance notice of at least 4 weeks would be required in any circumstance.

12. The minimum period for advertiser sponsorship of programs in television is generally 13 weeks. Program sponsorships of 26, 39, and 52 weeks are also common. It has been stated that the 56 day (8 week) pre-emption right of the networks under the present rule makes it difficult for the station and a non-network advertiser to enter into a contract for a time period subject to the network's option, even when the station may not currently be ordered for a network program during the time period, since the non-network program may subsequently be pre-empted before it has run its normal course. In order to enable a station to fulfill a minimum-term contract with a non-network advertiser, while still permitting the network to exercise its option right upon reasonable notice, the Commission proposes to consider an amendment to the existing rules which would prohibit an agreement to make time subject to call on less notice than 13 weeks, or the termination date of a firm contract with an advertiser for a non-network program, whichever is less. Thus, under the proposed amendment, if a station has entered into a firm contract of 13 weeks with an advertiser for a non-network program, and the termination date of the contract is in 10 weeks, the network's option could not be exercised on less than 10 weeks' notice. If the contract with the non-network advertiser has 13 weeks or more to run (for example a 26 week contract due to be terminated in 18 weeks) the network's option could not be exercised on less than 13 weeks' notice. On the other hand, if the termination date of the contract is in 6 weeks, the network could exercise its option on 6 weeks' notice, a shorter period of advance notice than is presently required.

13. In order to take into account the possibility that a single non-network program may be sponsored by several different advertisers whose contracts have different termination dates, the proposed rule would provide that the network's option could not be exercised prior to the latest of the termination dates of the several contracts, up to the maximum of 13 weeks. The 13 week maximum period of advance notice would apply to consecutive weeks. Thus, two alternate-week sponsors, each of whom had a contract for 13 (alternate) weeks, would not be guaranteed against pre-emption for the full term of the contracts.

14. The proposed amendment would also recognize the need of a station to plan its program schedule in advance and to enter into firm commitments for the sale of a non-network program prior to the starting date of the program. Under the proposed rule, if a station has entered into a firm contract with an advertiser for a non-network program within 4 weeks of the starting date of the program, the network may not exercise its option, pursuant to its contractual agreement with the station, prior to the first 13 weeks of the program. The proposed rule would apply in similar fashion to renewals of existing contracts entered into within 4 weeks of the starting date of the renewed program. For example, a station and non-network advertiser may have entered into a contract for 13 weeks, which is due to terminate in 2 weeks but which has been renewed for a period of 13 weeks at the time that the network seeks to exercise its option. In this case, the pre-emption could not take effect until the end of the renewed program (in 15 weeks).

15. The proposed amendment would provide for a minimum notice of four weeks in those situations where the station does not have any non-network program contract commitments, or where such commitments are due to terminate within a short period and the station has not signed another firm contract to renew or replace the program. Such a minimum notice requirement may be necessary so that the station may have adequate time to determine whether or not to accept the network program, and to make or adjust its own program plans accordingly.

16. It should be noted that the proposed rule, as at present, would apply to any contract, arrangement or understanding between a station and a network. It would not preclude a station from voluntarliy accepting a particular network program on a period of notice shorter than that specified in the rule, but would prohibit an agreement with the network that would require the station to accept a network program in option time on less notice than the minimum time periods described above.

17. With the proposed amendments described above, § 3.658(d) would provide as follows: No license shall be granted to a television broadcast station which options for network programs: (1) Any time subject to call (a) prior to thirteen

weeks or the termination date, or the latest of the termination dates, of a firm contract or contracts for a non-network program between the station and an advertiser or advertisers, whichever is less, or (b) if such program is scheduled under a firm contract to begin within four weeks, prior to the first thirteen weeks of the program, or (c) in any event, prior to four weeks' notice; or (2) more than a total of 2½ hours within each of four segments of the broadcast day, as herein described. The broadcast day is divided into four segments, as follows: 8 a.m. to 1 p.m.; 1 p.m. to 6 p.m.; 6 p.m. to 11 p.m.; 11 p.m. to 8 a.m. (These segments are to be determined for each station in terms of local time at the location of the station but may remain constant throughout the year regardless of shifts from standard to daylight saving time or vice versa.) Such options may not be exclusive as against other network organizations and may not prevent or hinder the station from optioning or selling any or all of the time covered by the option, or other time, to other network organizations.

NOTE 1: As used in this section, an option is any contract, arrangement or understanding, express or implied, between a station and a network organization which prevents or hinders the station from scheduling programs before the network agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize the time.

NOTE 2: All time options permitted under this section must be specified clock hours, expressed in terms of any time system set forth in the contract agreed upon by the station and network organization. Shifts from daylight saving to standard time or vice versa may or may not shift the specified hours correspondingly as agreed by the station and network organization.

NOTE 3: In determining the number of hours of option time, any network program which begins during the hours agreed upon by the network and station as option time and extends into non-option time, or which begins during non-option time and extends into the hours agreed upon as option time, shall be considered as falling entirely within option time. This provision shall not be applicable to live programs of national importance involving educational, cultural or public affairs, special events, or sporting events which, because of their length necessarily straddle both option time and non-option time and which it would be in the public interest for stations to broadcast as a unit or at the time that the events take place.

Amendments to § 3.658(e):

18. *Right to reject programs as unsatisfactory or unsuitable.* Section 3.658(e) of the Chain Broadcasting Rules now provides:

Right to reject programs. No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which (1) with respect to programs offered pursuant to an affiliation contract, prevents or hinders the station from rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable; or which (2) with respect to network programs so offered or already contracted for, prevents the station from rejecting or refusing any program which, in its opinion, is contrary to the public interest, or from substituting a program of outstanding local or national importance.

This rule, it will be noted, differentiates between the station's right to reject or refuse network programs offered to the station and those already contracted for by the station. The Commission proposes to consider an amendment to this rule which would give the station the same rejection rights in both circumstances.

19. Under the present rule, a station may not enter into an agreement or understanding which prevents it from rejecting or refusing a program offered pursuant to a network contract which the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest, or from substituting a program of outstanding local or national importance. When a station has already contracted for a network program, the agreement with the network may not prevent it from rejecting or refusing the program as contrary to the public interest or from substituting a program of outstanding local or national importance. Under the present rule, however, a station may enter into an agreement with a network which would prevent it from rejecting or refusing a program already contracted for even though the station reasonably believes the program to be unsatisfactory or unsuitable. It may be desirable for a station to be in a position to reject or refuse a network program as unsatisfactory or unsuitable after the program has been contracted for. It has been pointed out, for example, that in some instances a station may not be in a position to determine prior to the time that a network program is contracted for whether or not subsequent programs in the series will prove to be satisfactory or suitable to the interests of the community which it serves. The Commission therefore proposes to consider an amendment to § 3.658(e) which would broaden the station's right to exercise its judgment with respect to the acceptance or rejection of network programs so that a station and network may not reach an agreement which would prevent the station from refusing a network program already contracted for which the station reasonably believes to be unsatisfactory or unsuitable.

20. *Right to substitute programs.* The present language of § 3.658(e) prohibits a station from entering into an agreement with a network which would prevent it from substituting for a network program offered or contracted for a program of outstanding local or national importance. The station is not, however, prohibited from entering into an agreement which would prevent it from substituting a program which the station considered to be of greater (as distinct from outstanding) local or national importance. It may be desirable for a station to be in a position to reject a network program in order to substitute a program which it considers to be more in the interests of its viewing public. The Commission therefore proposes to consider an amendment to § 3.658(e) which would broaden the station's right to exercise its judgment with respect to the acceptance or rejection of network programs so that a station and network may not reach an agreement which would prevent the station from substituting for a network program a program of greater local or national importance.

21. With the two amendments proposed above, § 3.658(e) would provide as follows: No license shall be granted to a television broadcast station having any contract,[1] arrangement, or understanding, express or implied, with a network organization which, with respect to programs offered or already contracted for pursuant to an affiliation contract, prevents or hinders the station from (1) rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable or contrary to the public interest, or (2) substituting a program which, in the station's opinion, is of greater local or national importance.

22. The Report on Network Broadcasting did not study the option time arrangements in the radio field, and the present Notice of Proposed Rule Making applies specifically to television. Parties filing comments are also requested to direct their attention to the need for or desirability of issuing a similar Notice of Proposed Rule Making with respect to network option time in radio.

23. Any interested party desiring to file comments with respect to the above matter may file with the Commission, on or before June 22, 1959, a written statement or brief setting forth his comments. Comments or briefs in reply to the original comments may be filed within 30 days from the last day for filing said original comments. No additional comments may be filed unless (a) specifically requested by the Commission or (b) good cause for the filing of such additional comment is established.

24. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be filed.

25. Authority for the adoption of the proposed amendments is contained in section 4(i), 303(f) and 303(i) of the Communications Act of 1934, as amended.

Adopted: April 22, 1959.

Released: April 23, 1959.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3563; Filed, Apr. 27, 1959; 8:45 a.m.]

[1] Dissenting statement of Commissioner Hyde, concurring in part and dissenting in part statement of Commissioner Craven, and concurring statement of Commissioner Ford filed as part of original document.

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

CITY OF OAKLAND, CALIF., AND McQUIRE CHEMICAL CO.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8405, between the City of Oakland, California, and McQuire Chemical Company, covers the lease by Oakland to McQuire, of the Seventh Street Pier Transit Shed and certain open area adjacent thereto, more particularly described in the agreement, and on terms and conditions set forth therein, for a period of twenty (20) years.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: April 23, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-3560; Filed, Apr. 27, 1959; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 20, 1959.

The Bureau of Land Management has filed an application, Serial Number I-010254, for the withdrawal of the lands described below, from all forms of appropriation and use except grazing. The applicant desires the land for the Malad Radio Repeater Station.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 14 S., R. 34 E.,
Sec. 23, S½SW¼NE¼SW¼.

This area includes 5 acres in Oneida County, Idaho.

DONALD I. BAILEY,
Acting State Supervisor.

[F.R. Doc. 59-3539; Filed, Apr. 27, 1959; 8:46 a.m.]

[I-21]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

APRIL 17, 1959.

The Bureau of Public Roads has filed an application, Serial No. U-017574, for the withdrawal of the lands described below, from location and entry under the public land laws, including the general mining laws, but not the mineral leasing laws. Grazing administration will be continued by the Bureau of Land Management.

The applicant desires the withdrawal of the lands for future right-of-way purposes for locating an interstate highway, the location of which has not definitely been determined. Upon determination of the location of the highway, the excess lands will be restored.

For a period of 30-days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, P.O. Box 777, Salt Lake City 10, Utah.

If circumstances warrant, a public hearing will be held at a convenient time and place which will be announced.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands requested for withdrawal are as follows:

SALT LAKE MERIDIAN, UTAH

T. 43 S., R. 15 W.,
Sec. 7: SE¼NW¼, SW¼.
T. 43 S., R. 16 W.,
Sec. 13: SE¼SW¼, NE¼SE¼, S½SE¼, SE¼NE¼;
Sec. 23: SE¼, E½NE¼;
Sec. 24: W½;
Sec. 26: All;
Sec. 34: Lots 1, 2, NE¼;
Sec. 35: Lots 3, 4, NW¼.

The above area aggregates 1,998.13 acres.

VAL B. RICHMAN,
State Supervisor.

[F.R. Doc. 59-3540; Filed, Apr. 27, 1959; 8:47 a.m.]

National Park Service

ROCKY MOUNTAIN NATIONAL PARK

Revision of Boundary

Notice is hereby given that the United States, by virtue of authority provided in the act of Congress approved August 24, 1949 (63 Stat. 626), has acquired title to certain lands for the eastern approach road to Rocky Mountain National Park, as shown by the herein published drawing (drawn by W. G. Selkirk February 6, 1959, NP-RM-7019). Copy thereof is on file with the FEDERAL REGISTER and a copy shall be kept in the office of the Superintendent for public inspection.

Pursuant to section 3 of the act of August 24, 1949, supra, thirty days from the date of publication of this notice the lands shown in the drawing shall become a part of the Rocky Mountain National Park and shall thereafter be subject to all laws and regulations applicable to the park, subject to the provisions of the act of August 25, 1916 (39 Stat. 535; 16 U.S.C., secs. 1-4), as amended and supplemented.

Dated this 21st day of April 1959.

FRED A. SEATON,
Secretary of the Interior.

[F.R. Doc. 59-3541; Filed, Apr. 27, 1959; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11997; FCC 59-389]

ALLOCATION OF FREQUENCIES TO VARIOUS NON-GOVERNMENTAL SERVICES

Third Notice of Hearing

In the matter of statutory inquiry into the allocation of frequencies to the various non-governmental services in the radio spectrum between 25 Mc and 890 Mc; Docket No. 11997.

Notice is hereby given that the fact-finding hearing in the above-entitled proceeding will commence before the Commission, en banc, at 10:00 a.m. on May 25, 1959, in Room 7134, New Post Office Building, Washington, D.C.

Attached is the list of witnesses,[1] who if they desire may present a 15-minute summary of the direct testimony previously submitted to the Commission, in the order of their scheduled appearances. The list includes all witnesses who have filed written testimony. Those witnesses who desire to utilize the allotted 15-minute period, must notify the Commission in writing on or before May 4, 1959. Should the Commission wish to cross-examine any witnesses who do not choose to present an oral summary, those witnesses will be notified by a subsequent order. The list of witnesses, as well as

[1] Filed as part of the original document.

the order of their appearance, is subject to change, but the Commission will endeavor to give as much advance notice as possible of any such changes.

The Commission requests that all parties who desire to utilize the summary period allotted them, be as brief as possible in their statements and limit such statements to the testimony previously submitted in writing.

Adopted: April 22, 1959.

Released: April 23, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3564; Filed, Apr. 27, 1959; 8:45 a.m.]

[Docket Nos. 12539, 12540; FCC 59M-523]

PRESS WIRELESS, INC.

Order Scheduling Further Prehearing Conference

In the matter of the applications of Press Wireless, Inc., Docket No. 12539, File No. 2579-C4-ML-58; Docket No. 12540, File No. 2580-C4-ML-58; for modification of its Centereach, N.Y. and Belmont, Calif. fixed public press station licenses to permit the handling of traffic specified in proposed Tariff F.C.C. No. 34 (International Telecon Service), and certain other non-press communications.

The prehearing conference in the above-entitled proceeding will be resumed on Thursday, May 7, 1959, beginning at 2:00 p.m. in the offices of the Commission, Washington, D.C. Among the matters to be considered are the request of Press Wireless, Inc. for subpoenas and the oppositions of RCA Communications, Inc. and Mackay Radio and Telegraph Company, Inc. to such request.

It is so ordered, This the 22d day of April 1959.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3565; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket No. 12813; FCC 59M-515]

SOUTHBAY BROADCASTERS

Order Scheduling Prehearing Conference

In re application of Burr Stalnaker, John B. Stodelle and Howard L. Chernoff, d/b as Southbay Broadcasters, Chula Vista, California, Docket No. 12813, File No. BP-11469; for construction permit for a new standard broadcast station.

It is ordered, This 21st day of April 1959, that a prehearing conference, in accordance with § 1.111 of the rules, will be held in the above-entitled matter at 10:00 o'clock a.m. on Wednesday, April 29, 1959, in the offices of the Commission, Washington, D.C.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3566; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket No. 12848 etc.; FCC 59M-519]

YAKIMA TELEVISION CORP. ET AL.

Order Scheduling Hearing

In re applications of Yakima Television Corporation, Yakima, Washington, Docket No. 12848, File No. BPCT-2438; Charles R. White, Yakima, Washington, Docket No. 12849, File No. BPCT-2450; John W. Powell, Yakima, Washington, Docket No. 12850, File No. BPCT-2506; Ralph Tronsrud d/b as Yakima Valley Television Co., Yakima, Washington, Docket No. 12851, File No. BPCT-2587; for construction permits for new television broadcast stations (Channel 23).

It is ordered, This 21st day of April 1959, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 17, 1959, in Washington, D.C.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3567; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket No. 12837 etc.; FCC 59M-517]

BIRNEY IMES, JR., ET AL.

Order Scheduling Hearing

In re applications of Birney Imes, Jr., West Memphis, Arkansas, Docket No. 12837, File No. BP-11465; Nathan Bolton and A. R. McCleary, d/b as Morehouse Broadcasting Company (KTRY), Bastrop, Louisiana, Docket No. 12838, File No. BP-11924; Newport Broadcasting Company, West Memphis, Arkansas, Docket No. 12839, File No. BP-12113; Crittenden County Broadcasting Company, West Memphis, Arkansas, Docket No. 12840, File No. BP-12405; for construction permits.

It is ordered, This 21st day of April 1959, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 23, 1959, in Washington, D.C.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3568; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket No. 12841 etc.; FCC 59M-518]

BAMRAY BROADCASTING CO. ET AL.

Order Scheduling Hearing

In re applications of Bamray Broadcasting Company, San Antonio, Texas, Docket No. 12841, File No. BP-11676; Top Broadcasters, Inc., San Antonio, Texas, Docket No, 12842, File No. BP-12321; Manuel G. Davila and Manuel D. Leal d/b as The Natalia Broadcasting Company, Natalia, Texas, Docket No. 12843, File No. BP-12499; for construction permits for new standard broadcast stations.

It is ordered, This 21st day of April 1959, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 17, 1959, in Washington, D.C.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3569; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket No. 12844 etc., FCC 59-M 516]

RICHARD L. DeHART ET AL.

Order Scheduling Hearing

In re applications of Richard L. DeHart, Mountlake Terrace, Washington, Docket No. 12844, File No. BP-11312; KVOS, Inc. (KVOS), Bellingham, Washington, Docket No. 12845, File No. BP-11360; Clair Conger Fetterly, tr/as Lake Washington Broadcasting Company, Bothell, Washington, Docket No. 12846, File No. BP-11390; John W. Davis (KPDQ), Portland, Oregon, Docket No. 12847, File No. BP-11436; for construction permits for standard broadcast stations.

It is ordered, This 21st day of April 1959, that Isadore A. Honig will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 23, 1959, in Washington, D.C.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-3570; Filed, Apr. 27, 1959; 8:46 a.m.]

[Docket No. 12853]

BERKSHIRE MANUFACTURING CO., INC.

Order Designating Matter for Hearing

In the matter of cease and desist order to be directed to Berkshire Manufacturing Company, Inc., 7 John Street, Pittsfield, Massachusetts, Docket No. 12853.

The Commission having under consideration the issuance of an order pur-

suant to section 312(b) of the Communications Act of 1934, as amended, to Berkshire Manufacturing Company, Inc., 7 John Street, Pittsfield, Massachusetts, (1) to cease and desist from operating industrial heating equipment so as to cause interference to authorized radio communications; and (2) irrespective of whether such interference is caused to authorized radio communications, to cease and desist from operating industrial heating equipment without a proper certificate or license as required by Part 18 of the rules of the Federal Communications Commission; and

It appearing that Berkshire Manufacturing Company, Inc., operates in its plant at Pittsfield, Massachusetts, certain industrial heating equipment which utilizes a radio frequency generator or generators and transmits radio frequency energy on frequencies authorized for use by television broadcast stations; and

It further appearing that said industrial heating equipment is subject to the provisions of Part 18 of the Commission's rules (47 CFR Part 18); and

It further appearing that the aforementioned industrial heating equipment causes interference to authorized television broadcast reception at Pittsfield, Massachusetts; and

It further appearing that the aforementioned industrial heating equipment has not been certified by a duly qualified engineer as required by § 18.103 of the Commission's rules, nor has the equipment been licensed pursuant to § 18.3 and Subpart D of Part 18 of the Commission's rules; and

It further appearing that the above facts have been called to the attention of Berkshire Manufacturing Company, Inc., by the Commission both orally and in writing, and that Berkshire Manufacturing Company, Inc., has been afforded an opportunity to demonstrate or achieve compliance with all lawful requirements but such demonstration has not been made and such compliance has not been accomplished;

It is ordered, This 21st day of April 1959, pursuant to section 312 of the Communications Act of 1934, as amended (47 U.S.C. § 312) and section 0.41(f) of the rules of the Federal Communications Commission that Berkshire Manufacturing Company, Inc., its officers, servants, agents, employees, privies, assigns, successors in interest, or other parties acting in concert with Berkshire Manufacturing Company, Inc. (1) cease and desist from operating industrial heating equipment so as to cause interference to authorized radio communications; and (2) irrespective of whether such interference is caused to authorized radio communications, cease and desist from operating industrial heating equipment without a proper certificate or license as required by Part 18 of the rules of the Federal Communications Commission; and

It is further ordered, That a hearing in this matter be held at Pittsfield, Massachusetts, at 10:00 a.m. on the 3d day of June 1959 before a Commission hearing examiner to be designated by subsequent order to determine whether said cease and desist order should be issued, and that Berkshire Manufacturing Company, Inc., is herewith called upon to appear at this hearing and give evidence upon the matter specified herein; and

It is further ordered, Pursuant to § 1.62 of the rules, that Berkshire Manufacturing Company, Inc., is directed to file with the Commission within 30 days of receipt of this order a written appearance in triplicate, stating that Berkshire Manufacturing Company, Inc., will appear and present evidence on the matters specified in this order. If Berkshire Manufacturing Company, Inc., does not desire to avail itself of its opportunity to appear before the Commission and give evidence on the matters specified herein, it shall, within 30 days of receipt of this order, file with the Commission, in triplicate a written waiver of hearing. Such waiver may be accompanied by a statement of the reasons why Berkshire Manufacturing Company, Inc., believes that a cease and desist order should not issue; and

It is further ordered, That failure of said Berkshire Manufacturing Company, Inc., timely to respond to this order or its failure to appear at the hearing designated herein will be deemed a waiver of hearing.

Released: April 22, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3571; Filed, Apr. 27, 1959; 8:46 a.m.]

[FCC 59-394]

STATEMENT OF ORGANIZATION, DELEGATIONS OF AUTHORITY AND OTHER INFORMATION

Exemptions of Ships From Certain Radio-Telegraph Requirements

In the matter of amendment of section 0.292(b) of the Commission's statement of delegations of authority concerning exemption of ships from radio-telegraph requirements of the Safety Convention or the Communications Act or both, to avoid application of more than one radio system requirement to individual ships, and to add legal references reflecting authority for ship radio exemptions in general.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 22d day April 1959;

The Commission having under consideration the necessity for amending section 0.292(b) of the Commission's Statement of Delegations of Authority to authorize the Chief of the Safety and Special Radio Services Bureau, or in his absence, the Acting Chief of the Bureau, to grant or deny requests filed pursuant to Regulation 4 of Chapter I or Regulation 5 of Chapter IV of the Safety of Life at Sea Convention for initial exemption under certain circumstances of vessels transiting the St. Lawrence Seaway from the compulsory radiotelegraph requirements of Regulation 3, Chapter IV, Safety of Life at Sea Convention, or Part II of Title III of the Communications Act, or both, and to include in that section a reference to Regulation 12(b), Chapter V, of the Safety Convention relating to exemptions from certain direction-finding requirements;

It appearing that the Commission, in passing upon one such request for exemption, has established a general policy to be followed in granting or denying subsequently received similar requests; and

It further appearing that such amendment is designed to improve the internal administration of the Commission's functions and will facilitate the prompt and orderly handling of the above-described requests for exemption; and

It further appearing that the amendment herein ordered relates to internal Commission organization and procedure and, therefore, compliance with the public notice and rule making procedures, including the provision concerning effective dates, of section 4 of the Administrative Procedure Act is not required; and

It further appearing that authority for the proposed amendment is contained in section 5(d)(1) of the Communications Act of 1934, as amended;

It is ordered, That, effective April 22, 1959, section 0.292(b) of the Commission's Statement of Delegations of Authority is amended to read as follows:

(b) Applications or requests for exemption, pursuant to the provisions of section 352(b) and 383 of the Communications Act, Regulation 4, Chapter I of the Safety Convention, Regulation 5 or 6, Chapter IV of the Safety Convention, and Regulation 12(b), Chapter V of the Safety Convention, or Article 6 of the Great Lakes Agreement:

(1) For emergency and renewal exemption of vessels;

(2) For initial exemption of vessels subject to Title III, Part III of the Act;

(3) For initial exemption of vessels of less than 100 gross tons subject to Title III, Part II of the Act or the Safety Convention;

(4) For exemption from Title III, Part II of the Act of vessels operated in the Gulf of Mexico which participate in oil well drilling operations when the circumstances are substantially the same as those in precedent cases decided by the Commission en banc; and

(5) For initial exemption of vessels, transiting the St. Lawrence Seaway and not navigated solely on the Great Lakes, from the radiotelegraph requirements of the Safety Convention or Title III, Part II of the Act or both, in those cases in which the sole reason for such exemption is to avoid requirements for more than one basic safety radio system on such individual vessels.

Released: April 23, 1959.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3572; Filed, Apr. 27, 1959; 8:46 a.m.]

[1] Concurring Statement of Commissioner Ford filed as part of the original document.

FEDERAL POWER COMMISSION

[Docket No. G-18268]

L. L. HORNE

Order for Hearing and Suspending Proposed Change in Rate

APRIL 22, 1959.

L. L. Horne (Horne) on March 23, 1959, tendered for filing proposed changes in his presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filing:

Description: Two Notices of Change, dated March 18, 1959.
Purchaser: Permian Basin Pipeline Company.
Rate schedule designation: Supplements Nos. 3 and 4 to Horne's FPC Gas Rate Schedule No. 1.
Effective date: April 23, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate changes, Horne states that the gas is sold subject to the terms and conditions of a contract between Permian Basin Pipeline Company and Phillips Petroleum Company, dated February 8, 1952, and ratified by Horne as evidenced by instrument executed on May 22, 1957. Supplement No. 3 applies to "Devonian" gas and Supplement No. 4 to "Ellenburger" gas. Horne requests that the support submitted by Phillips, as Operator, be included in his filing by reference. Phillips tender was suspended by Commission order issued November 28, 1958, in Docket No. G-17071.

The increased rates and charges here proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplements Nos. 3 and 4 to Horne's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplements Nos. 3 and 4 to Horne's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said Supplements be and they are hereby suspended and the use thereof deferred until September 23, 1959, and thereafter until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(c) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3527; Filed, Apr. 27, 1959; 8:45 a.m.]

[Docket No. G-18269]

MONSANTO CHEMICAL CO.

Order for Hearing and Suspending Proposed Change in Rate

APRIL 22, 1959.

Monsanto Chemical Company (Monsanto) on March 23, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following filing:

Description: Notice of Change, dated March 20, 1959.
Purchaser: Tennessee Gas Transmission Company.
Rate schedule designation: Supplement No. 7 to Monsanto's FPC Gas Rate Schedule No. 6.
Effective date: April 23, 1959 (effective date is the first day after expiration of the required thirty-days' notice).

Monsanto herein proposes a redetermined rate increase for the gas produced in Placedo Field, Victoria County, Texas, and sold to Tennessee Gas Transmission Company under a contract dated January 1, 1949. The proposed rate level is alleged to be the average of the three highest prices paid for gas in Texas Railroad District No. 2 by transporters. Monsanto, in support of the increase, cites the pertinent contract provisions and submits a letter purporting to effectuate those provisions.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Monsanto's FPC Gas Rate Schedule No. 6 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Monsanto's FPC Gas Rate Schedule No. 6.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until September 23, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3528; Filed, Apr. 27, 1959; 8:45 a.m.]

[Docket No. G-18270]

OIL PARTICIPATIONS, INC.

Order for Hearing and Suspending Proposed Change in Rate

APRIL 22, 1959.

Oil Participations, Inc. (Oil Participations) on March 23, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated March 20, 1959.
Purchaser: United Fuel Gas Company.
Rate schedule designation: Supplement No. 4 to Oil Participations' FPC Gas Rate Schedule No. 8.
Effective date: April 23, 1959 (effective date is the first day following expiration of the required thirty-days' notice).

In support of the two-step periodic rate increase, Oil Participations cites the contract provisions and states that the proposed rate is proper, just, fair and reasonable. Applicant avers that gas is being sold in the area at prices higher than that proposed in its notice of change.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change,

and that Supplement No. 4 to Oil Participations' FPC Gas Rate Schedule No. 8 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Oil Participations' FPC Gas Rate Schedule No. 8.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until September 23, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3529; Filed, Apr. 27, 1959; 8:45 a.m.]

[Docket No. E-6880]

MONTANA POWER CO.

Notice of Application

APRIL 22, 1959.

Take notice that on April 15, 1959, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by The Montana Power Company ("Applicant"), a corporation organized under the laws of the State of New Jersey and doing business in the States of Idaho, Montana and Wyoming with its principal business office at Butte, Montana, seeking an order authorizing the issuance of two additional shares of its Common Stock, no par value, for each share held by holders of its Common Stock at the close of business June 26, 1959. Applicant proposes to split the Common Stock issued and outstanding on the basis of three shares for one by the issuance to each holder of its Common Stock of a certificate for two additional shares for each share of Common Stock held. The application states that Applicant presently has 2,495,667 shares of its no par Common Stock outstanding. Applicant will receive no proceeds from the issuance of the additional Common Stock and with respect to such issuance requests on exemption from § 34.1a of the regulations under the Federal Power Act requiring competitive bidding. Applicant states its belief that the proposed split of the Common Stock, as outlined above, will broaden the market for same and attract wider ownership and would therefore, be of advantage to Applicant and its shareholders while in no way impairing Applicant's proper performance as a public utility.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 11th day of May 1959, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3530; Filed, Apr. 27, 1959; 8:45 a.m.]

[Docket Nos. G-9671, G-9672]

MORRIS CANNAN AND SUBSURFACE RESERVE CORP.

Notice of Applications and Date of Hearing

APRIL 22, 1959.

Take notice that on November 18, 1955, Morris Cannan (Cannan) and Subsurface Reserve Corporation (Subsurface)[1] filed companion applications in the above dockets seeking, (1) authorization for Cannan to abandon service pursuant to section 7(b) of the Natural Gas Act, and (2) a certificate of public convenience and necessity authorizing Subsurface to continue the sale presently being made by Cannan pursuant to section 7(c) of the Natural Gas Act, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open to public inspection.

Applicants request authorization for:

(1) Cannan to abandon his sales of gas to Texas Eastern Transmission Corporation (Texas Eastern) from the Gladys Powell Field, Goliad County, and the Kittie Field, Live Oak County, Texas.

(2) Subsurface to continue the sales of natural gas to Texas Eastern proposed to be abandoned by Cannan.

The subject sales are made under contracts dated September 15, 1953, and December 15, 1953, respectively. The September contract is signed by Cannan, Frank W. Michaux (Michaux) and Creslenn Oil Company (Creslenn) as selling parties. The December contract is signed by Michaux and Cannan as selling parties.

The applications state that Subsurface has acquired all of Cannan's interests in the leases dedicated to the performance of the above contracts.

Michaux, Cannan and Creslenn were authorized to make the sale of gas from the Gladys Powell Field by order issued November 30, 1955, in Docket No. G-4417. The related gas sale contracts, dated September 15, 1953, is on file with the Commission as Michaux's FPC Gas Rate Schedule No. 3.

Michaux and Cannan were authorized to make the sale from the Kittie Field by order issued July 25, 1955, in Docket No. G-4293. The related gas sale contract dated December 15, 1953, is on file with the Commission as Michaux's FPC Gas Rate Schedule No. 4.

The parties have requested that the interests of Subsurface be included under Michaux's rate schedules, as Michaux is still the operator of the properties involved.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 27, 1959, at 9:30 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c)(1) or (c)(2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 16, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3531; Filed, Apr. 27, 1959; 8:45 a.m.]

[1] Subsurface Reserve Corporation is a Texas corporation having its principal place of busines in the Milam Building, San Antonio, Texas.

[Project No. 2259]

PORTLAND GENERAL ELECTRIC CO.

Notice of Application for License

APRIL 21, 1959.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Portland General Electric Company of Portland, Oregon, for license for a proposed hydroelectric development to be known as the Round Butte Project, designated as Project No. 2259, situated on the Deschutes River and its tributaries Crooked and Metolius Rivers, in Jefferson and Marion Counties, Oregon, affecting lands of the United States in the

Deschutes National Forest, soil conservation lands in Project LU–2 Oregon, tribal lands in the Warm Springs Indian Reservation and other lands of the United States.

The proposed Round Butte Project consists of a rock-fill dam with impervious earth core, across the Deschutes River approximately one-half mile below the confluence of Metolius River with Deschutes River, having a maximum height of 440 feet above foundation and crest length of 1,320 feet; a separate spillway on the left bank; a reservoir extending 8 miles up Deschutes River, 11 miles up Metolius River, and 6 miles up Crooked River and having gross storage capacity of 500,000 acre-feet (250,000 acre-feet net storage capacity used in operation) and surface area of 3,600 acres at elevation 1,945; an outdoor-type powerhouse located on the left bank immediately below the dam with three vertical-shaft Francis turbines rated 115,000 hp each, direct-connected to three generators rated 91,500 kva at 0.9 pf (82,350 kw) each; a switchyard; a 230-kv transmission line to the applicant's Bethel substation near Salem, Oregon; a 12.5-kv line to the applicant's constructed Pelton Project No. 2030; and fish handling facilities to pass upstream and downstream migrants.

This proposed project would flood out constructed licensed Project No. 1447 on the Crooked River, in which there is also installed a unit belonging to the United States Bureau of Reclamation.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day on which protests or petitions may be filed is June 1, 1959. The application is on file with the Commission for public inspection.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-3532; Filed, Apr. 27, 1959; 8:45 a.m.]

[Docket No. G-9681 etc.]

MONSANTO CHEMICAL CO. ET AL.

Order Instituting Rate Investigation, Consolidating Proceedings, and Fixing Date of Hearing

APRIL 21, 1959.

In the matters of Monsanto Chemical Company, Docket Nos. G–9681, G–9682, G–11368, G–11369, G–13612, G–14039, and G–14551; Monsanto Chemical Company (Operator), et al., Docket No. G–14728; Monsanto Chemical Company, Docket Nos. G–14858 and G–16807; Monsanto Chemical Company (Operator), et al., Docket No. G–16808; Monsanto Chemical Company, Docket No. G–18318.

By order of the Commission issued April 28, 1958, the rate suspension proceedings in the matters of Monsanto Chemical Company (Monsanto), Docket Nos. G–9681, G–9682, G–11368, G–11369, G–13612, G–14039 and G–14551, and of Monsanto Chemical Company (Operator) et al. (Monsanto), Docket No. G–14728, were consolidated and set for hearing. A hearing was held on October 20, 1958, during which Monsanto presented its direct case in favor of the proposed increases; on February 3, 1959, the Commission staff undertook cross examination. Further hearings were set for April 28, 1959.

Meanwhile other rate increases have been proposed by Monsanto and suspended in Docket Nos. G–14858, G–16807 and G–16808.[1] These have not been consolidated or set for hearing. Altogether the rate increases proposed by Monsanto comprehend a substantial part of Monsanto's natural gas endeavors subject to the jurisdiction of the Commission. Furthermore, staff investigations concerning the suspensions now in hearing indicate that various other Monsanto rates, presently in effect, may also be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Monsanto Chemical Company is an independent producer of natural gas and is a "natural gas company" within the meaning of the Natural Gas Act, being engaged in the sale and delivery of natural gas in interstate commerce for resale for ultimate public consumption.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that an investigation be instituted by the Commission, upon its own motion, into and concerning all rates, charges, or classifications demanded, observed, charged, or collected by Monsanto (except Louisiana tax reimbursement matters) in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, and any rules, regulations, practices, or contracts affecting such rates, charges, or classifications; and that this investigation be consolidated for hearing with the above-designated suspension proceedings.

The Commission orders:

(A) An investigation of Monsanto is hereby instituted under the provisions of the Natural Gas Act, particularly including sections 5, 14 and 15 thereof, for the purpose of enabling the Commission to determine whether, with respect to any transportation or sale of natural gas, subject to the jurisdiction of the Commission, made or proposed to be made by Monsanto, any of the rates, charges, or classifications (except Louisiana tax reimbursement matters), demanded, observed, charged, or collected, or any rules, regulations, practices or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential.

(B) If the Commission, after a hearing has been had, shall find with respect to Monsanto that any of its rates, charges, classifications, rules, regulations, practices, or contracts, subject to the jurisdiction of the Commission, are unjust, unreasonable, unduly discriminatory, or preferential, the Commission will thereupon determine and fix by order or orders just and reasonable rates, charges, classifications, rules, regulations, practices or contracts, to be thereafter observed and in force.

(C) Pursuant to the authority contained in the Natural Gas Act, subject to the jurisdiction conferred upon the Federal Power Commission therein, including particularly sections 4, 5, 14, and 15 thereof, and pursuant to the Commission's rules and regulations (18 CFR Ch. I), the above-designated Docket Nos. G–9681, G–9682, G–11368, G–11369, G–13612, G–14039, G–14551, G–14728, G–14858, G–16807, and G–16808 and the rate investigation proceeding hereby instituted in Docket No. G–18318 are hereby consolidated for the purpose of hearing.

(D) The public hearing heretofore scheduled to resume on April 28, 1959, is hereby postponed to resume on June 15, 1959, at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., and shall concern the matters involved and the issues presented in the consolidated proceedings designated in paragraph (C) above.

(E) When said hearing is resumed on June 15, 1959, the Commission's staff shall go forward first and present evidence in its direct case in these consolidated proceedings, after having served its proposed exhibits and prepared testimony not less than one week in advance. The presiding examiner shall thereafter proceed as may be found appropriate under the Commission's rules of practice and procedure.

(F) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-3533; Filed, Apr. 27, 1959; 8:46 a.m.]

[1] There have been other proceedings, but they concern suspensions of Louisiana tax reimbursement increases, not matters of concern to these proceedings: G–15737, G–15765, G–15844, G–15851, G–15945, and G–16338.

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL DIRECTOR OF URBAN RENEWAL, REGION II (PHILADELPHIA)

Redelegation of Authority With Respect to Slum Clearance and Urban Renewal Program; Urban Planning Grant Program

The Regional Director of Urban Renewal, Region II (Philadelphia), Housing and Home Finance Agency, is hereby authorized within such Region to exercise all the authority delegated to the HHFA Regional Administrator by the Housing and Home Finance Administrator's delegation of authority, effective December 23, 1954 (20 F.R. 428–429, January 19, 1955), as amended (20 F.R. 4275, June 17, 1955, 21 F.R. 1468,

March 7, 1956, 21 F.R. 3038, May 5, 1956, 21 F.R. 5385, July 18, 1956, 21 F.R. 5471, July 20, 1956, 22 F.R. 2887, April 24, 1957, 22 F.R. 4105, June 11, 1957, 23 F.R. 1202, February 26, 1958, 23 F.R. 1611, March 6, 1958, 23 F.R. 4820, June 28, 1958, 23 F. R. 8413, October 30, 1958, 23 F.R. 9078, November 21, 1958, 23 F.R. 9399, December 4, 1958 and 24 F.R. 242, January 9, 1959) with respect to the program authorized under Title I of the Housing Act of 1949, as amended (63 Stat. 414–421, as amended, 42 U.S.C. 1450–1460), and under section 312 of the Housing Act of 1954 (68 Stat. 629), and under section 701 of the Housing Act of 1954, as amended (68 Stat. 640, as amended, 40 U.S.C. 461), with respect to grants for urban planning, except those authorities which under paragraph 5 of such delegation may not be redelegated.

This redelegation supersedes and revokes the redelegations effective January 31, 1955 (20 F.R. 1041, February 17, 1955), January 13, 1956 (21 F.R. 621, January 27, 1956) and May 15, 1957 (22 F.R. 3830, May 30, 1957).

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); Reorg. Order 1, 19 F.R. 9303–5 (Dec. 29, 1954); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1952 ed. 1701c)

Effective as of the 18th day of February 1959.

[SEAL] DAVID M. WALKER,
Regional Administrator, Region II.

[F.R. Doc. 59–3554; Filed, Apr. 27, 1959; 8:48 a.m.]

REGIONAL DIRECTOR OF URBAN RENEWAL, REGION VII (PUERTO RICO AND VIRGIN ISLANDS)

Redelegation of Authority With Respect to Slum Clearance and Urban Renewal Program

The Regional Director of Urban Renewal, Region VII (Puerto Rico and Virgin Islands), Housing and Home Finance Agency, is hereby authorized within such Region to take the following actions under Title I of the Housing Act of 1949, as amended (63 Stat. 414–421, as amended, 42 U.S.C. 1450–1460), and under section 312 of the Housing Act of 1954 (68 Stat. 629, 42 U.S.C. 1450 note):

1. Approve proposed contracts for professional services between local public agencies and third parties;

2. Approve the following documents relating to contracts between local public agencies and third parties for site demolition and clearance and site preparation work, other than non-cash local grants-in-aid:

a. Proposed contract documents, before advertising for bids or award of contracts;

b. Proposed addenda to bidding documents and proposed change orders;

c. Drawings, specifications, cost estimates, and proposed methods for performing force account work;

d. Bidding proceedings, bid openings, and contract awards;

e. Contractors' estimates for partial and final payment; and

f. Acceptance of work completed under contract;

3. Approve proposed contracts between local public agencies and third parties for structural surveys;

4. Approve proposed contracts between local public agencies and third parties for subdivision plats and property-line surveys;

5. Approve Preliminary Project Reports and Project Eligibility and Relocation Reports;

6. Approve survey and planning budgets, project expenditures budgets and revisions thereof, and estimates of net and gross project costs;

7. Make or adopt determinations of salaries of architects and other technicians, pursuant to section 109 of the Housing Act of 1949, as amended;

8. Make determinations respecting the adequacy of general or master plans and positive programs of code enforcement and blight prevention;

9. Concur in the institution of eminent domain proceedings; and

10. Consent to local public agencies' requests to transfer funds from the Project Temporary Loan Repayment Fund to the Project Expenditures Account.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1952 ed. 1701c; Delegation of authority effective December 23, 1954 (20 F.R. 428–9, 1/19/55), as amended)

Effective as of the 1st day of July 1958.

[SEAL] PAUL COSTE,
Regional Administrator, Region VII.

[F.R. Doc. 59–3555; Filed, Apr. 27, 1959; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–1038]

AMERICAN HAWAIIAN STEAMSHIP CO.

Notice of Application To Strike From Listing and Registration, and of Opportunity for Hearing

APRIL 22, 1959.

In the matter of American Hawaiian Steamship Company, Capital Stock, File No. 1–1038.

New York Stock Exchange has made application, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

In the opinion of the Exchange, the stock is no longer suitable for dealing thereon because of the limited distribution consequent upon a recent company offer to purchase the stock at $105 per share. Holders of record after substantially discounting those of odd lots were estimated at about 125 as of March 19, 1959.

Upon receipt of a request, on or before May 8, 1959, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59–3545; Filed, Apr. 27, 1959; 8:47 a.m.]

[File No. 7–1985]

COLUMBIA BROADCASTING SYSTEM, INC.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

APRIL 22, 1959.

In the matter of application by the Philadelphia-Baltimore Stock Exchange for unlisted trading privileges in Columbia Broadcasting System, Incorporated common stock; File No. 7–1985.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f–1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange and Pacific Coast Stock Exchange.

Upon receipt of a request, on or before May 8, 1959, from any interested person, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59–3546; Filed, Apr. 27, 1959; 8:48 a.m.]

[File No. 812-1211]

THIRD'S SMALL BUSINESS INVESTMENT CO.

Notice of Filing of Application for Exemption

APRIL 21, 1959.

Notice is hereby given that The Third's Small Business Investment Company ("Applicant"), of Nashville, Tennessee, a registered closed-end non-diversified investment Company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from the provisions of section 10(c) of the Act to permit Applicant to have a board of directors consisting of persons who are officers or directors of Third National Bank in Nashville ("the Bank"), except one director of Applicant who shall not be an officer, director or employee of the Bank or of any affiliated person of the Bank, or an officer or employee of Applicant.

Applicant was incorporated under the laws of the State of Tennessee on March 5, 1959. It has submitted to the Small Business Administration a proposal to operate a small business investment company under the Small Business Investment Act of 1958 and has received from the Small Business Administration a Notice to Proceed with action necessary to qualify for a License as a small business investment company. Applicant has outstanding 16,000 shares of capital stock, of which 10,000 shares, or 62.5 percent, are owned by the Bank, and the remaining 6,000 shares are owned by Third National Company. All of the stock of Third National Company is held by trustees for the benefit of the stockholders of the Bank.

Applicant proposes to engage in the business of a small business investment company in cooperation with its parent, the Bank, in accordance with the policy declared in section 308(a) of the Small Business Investment Act of 1958. In view of the fact that the public investor interest in Applicant is confined to the shareholders of the Bank, Applicant believes that an exemption from the provisions of section 10(c) of the Investment Company Act to permit all except one of Applicant's directors to be persons who are officers or directors of the Bank would facilitate the operation of Applicant as a subsidiary of the Bank and would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that while the exemption is in effect, all of its capital stock will be owned by the Bank and Third National Company except the minimum number of shares required by the Small Business Investment Act and the regulations thereunder to be purchased by small business concerns, which shares will be issued with repurchase options if permitted by said Act and regulations. Applicant further states that it will advise the Commission promptly if the number of shares of its capital stock owned by shareholders other than the Bank and Third National Company should exceed 10 percent of the total number of shares outstanding, and in such event, Applicant agrees that the Commission may modify or terminate the order herein.

Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 6, 1959, at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C. At any time after said date, the application may be granted as provided in Rule 0-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-3547; Filed, Apr. 27, 1959; 8:48 a.m.]

[File No. 812-1221]

FIRST SMALL BUSINESS INVESTMENT CORPORATION OF NEW ENGLAND

Notice of Filing of Application for Exemption

APRIL 21, 1959.

Notice is hereby given that First Small Business Investment Corporation of New England ("Applicant"), of Boston, Massachusetts, a registered closed-end non-diversified investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from the provisions of section 10(c) of the Act to permit Applicant to have a board of directors consisting of persons who are officers or directors of The First National Bank of Boston ("the Bank"), except one director of Applicant who shall not be an officer, director or employee of the Bank or of any affiliated person of the Bank, or an officer or employee of Applicant.

Applicant was organized under the laws of the Commonwealth of Massachusetts on February 24, 1959. It has submitted to the Small Business Administration a proposal to operate a small business investment company under the Small Business Investment Act of 1958 and has received from the Small Business Administration a Notice to Proceed with action necessary to qualify for a license as a small business investment company. Applicant has outstanding 32,500 shares of capital stock, all of which are owned by the Bank.

Applicant proposes to engage in the business of a small business investment company in cooperation with its parent, the Bank, in accordance with the policy declared in section 308(a) of the Small Business Investment Act of 1958. In view of the fact that the public investor interest in Applicant is confined to the shareholders of the Bank, Applicant believes that an exemption from the provisions of section 10(c) of the Investment Company Act to permit all except one of Applicant's directors to be persons who are officers or directors of the Bank would facilitate the operation of Applicant as a subsidiary of the Bank and would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that while the exemption is in effect, all of its capital stock will be owned by the Bank except the minimum number of shares required by the Small Business Investment Act and the regulations thereunder to be purchased by small business concerns, which shares will be issued with repurchase options if permitted by said Act and regulations. Applicant further states that it will advise the Commission promptly if the number of shares of its capital stock owned by shareholders other than the Bank should exceed 10 percent of the total number of shares outstanding, and in such event, Applicant agrees that the Commission may modify or terminate the order herein.

Section 6(c) of the Act provides, among other things, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 6, 1959 at 5:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application may be granted as provided in Rule 0-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-3548; Filed, Apr. 27, 1959; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 50 (Revision 1)]

DEPUTY ADMINISTRATOR FOR INVESTMENT DIVISION

Delegation of Authority

I. Pursuant to the authority vested in the Administrator by the Small Business Investment Act of 1958 (Pub. Law 85-699); the Small Business Act (Pub. Law 85-536), as amended (Pub. Law 85-699); Reorganization Plan No. 2 of 1954, dated April 29, 1954 (83d Cong., 2d Sess.); and Reorganization Plan No. 1 of 1957, dated April 29, 1957 (85th Cong. 1st Sess.), there is hereby delegated to the Deputy Administrator for the Investment Division the authority:

A. *Specific.* 1. To take any and all actions necessary to carry out the provisions of Titles I through V of the Small Business Investment Act of 1958 (Pub. Law 85-699, 72 Stat. 689) within the limitations of said Act, the Small Business Investment Companies Regulation (23 F.R. 9383), and the Loans to State and Local Development Companies Regulation (23 F.R. 10511).

2. To authorize or approve (a) his personal travel and (b) the travel of Washington Office employees under his supervision, except travel when actual subsistence expenses are requested.

3. To approve (a) sick and annual leave, (b) leave without pay not in excess of 30 days, and (c) overtime work for employees under his supervision.

B. *Correspondence.* To sign all correspondence, except correspondence addressed to Members of Congress, relating to the investment program.

II. The authority delegated in I.A.1. may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Deputy Administrator for the Investment Division.

IV. All previous authority delegated by the Administrator to the Deputy Administrator for the Investment Division is hereby rescinded without prejudice to actions taken under all such delegations prior to the date hereof.

Dated: April 9, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-3549; Filed, Apr. 27, 1959; 8:48 a.m.]

[Declaration of Disaster Area 222]

OKLAHOMA

Declaration of Disaster Area

Whereas, it has been reported that during the month of March 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Oklahoma;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following Counties (including any areas adjacent to said Counties) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

Counties: Creek and Marshall (Tornado occurring on or about March 31, 1959).

Offices:

Small Business Administration Regional Office, Fidelity Building, 1000 Main Street, Dallas 2, Texas.

Small Business Administration Branch Office, Bankers Service Life Building, Room 315, 114 North Broadway, Oklahoma City 2, Oklahoma.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to October 31, 1959.

Dated: April 14, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-3550; Filed, Apr. 27, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 115]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 23, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62113. By order of April 21, 1959, the Transfer Board approved the transfer to Arnold Ligon Truck Line, Inc., Madisonville, Kentucky, of certificates in Nos. MC 35396, and Subs 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, 17, 18, 20, 22, 23, 24 and 25, issued March 4, 1947, May 17, 1949, November 10, 1950, May 2, 1951, February 2, 1953, May 13, 1952, January 5, 1952, December 13, 1951, July 14, 1954, November 25, 1955, January 4, 1955, August 29, 1956, July 3, 1958, June 4, 1956, November 13, 1957, February 15, 1957, March 12, 1959, March 12, 1959, June 18, 1958, July 9, 1958, and September 9, 1958 to Arnold Ligon, doing business as Arnold Ligon Truck Line, authorizing the transportation of: General Commodities, excluding household goods, commodities in bulk and other specified commodities between points in Indiana, Kentucky, Illinois, Tennessee, and Missouri; commodities, the transportation of which because of their size or weight requires the use of special equipment, related machinery parts and related contractors' materials and supplies, except prefabricated buildings and except oilfield commodities between points in Kentucky, Indiana, Ohio (except Columbus), Pennsylvania, West Virginia, and Tennessee, New York and New Jersey; lumber and various specified lumber products from points in Tennessee, Kentucky, Illinois, Indiana, Michigan, Ohio, Alabama, Arkansas, Georgia, Mississippi, Louisiana, Connecticut, Massachusetts, Minnesota, New Jersey, New York, Wisconsin, Missouri, North Carolina, Pennsylvania, West Virginia, Virginia, Iowa, and Kansas (with certain exceptions in various States); empty shipper-owned vehicles, other than tank vehicles, and of empty containers for radioactive materials, between the site of the Atomic Energy Commission's plant at or near Kevil, Ky., on the one hand, and, on the other, Oak Ridge, Tenn., and Sargents, Ohio; Class D, group III poisons (radioactive materials), in shipper-owned tank vehicles, and of empty shipper-owned tank vehicles, between the sites of the Atomic Energy Commission's plants, at or near Kevil, Ky., and Sargents, Ohio; such bulk commodities as are usually transported in dump vehicles, in bulk, in dump vehicles, between various points in Kentucky; radioactive semi-processed feed material, in granular form, in hopper type containers, from Fernald, Ohio, to Oak Ridge, Tenn., and empty containers used in transporting radioactive semiprocessed feed material from Oak Ridge, Tenn., to Fernald, Ohio; mine roof bolts, assembled or unassembled, from Gadsden, Ala., to points in Kentucky; building and excavating contractor's and mining machinery and equipment, road building equipment and machinery, and such commodities as require special handling between points in Illinois, Indiana, and Kentucky, substitution in Docket No. MC 35396 Sub 27. Harry McChesney, Jr., Attorney, McClure Building, Frankfort, Ky.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-3544; Filed, Apr. 27, 1959; 8:47 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 23, 1959.

Protests to the granting of an application must be prepared in accordance

with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35382—*Water, and water-motor rates—Seatrain Lines, Inc.* Filed by Seatrain Lines, Inc., Agent (No. 8), for itself and interested carriers. Rates on various commodities (moving on class rates) loaded in containers of Seatrain Lines, Inc., between specified (additional) points in New Jersey grouped with and taking New Brunswick or Wharton, N.J., bases of rates, on the one hand, and specified points in Louisiana grouped with New Orleans, La., and in Texas grouped with Bay City, Galveston, Houston, Texas City, or Velasco, Tex., and taking New Orleans or Texas base points rates, on the other, as the case may be.

Grounds for relief—Water-rail, rail-water, and rail-water-rail competition.

Tariff—Supplement 5 to Seatrain Lines, Inc., tariff I.C.C. No. 165.

FSA No. 35383—*Bituminous fine coal to Menomonie, Wis.* Filed by Illinois Freight Association, Agent (No. 55), for carriers parties to schedules listed in exhibit 1 of the application. Rates on bituminous fine coal, carloads from mines in Illinois, Indiana, and western Kentucky groups described in exhibit 2 of the application to Menomonie, Wis.

Grounds for relief—Rail barge-truck and barge-truck competition.

Tariffs—Supplement 23 to Illinois Freight Association tariff I.C.C. 898, Supplement 48 to Southern Freight Tariff Bureau tariff I.C.C. 1603, and other schedules listed in exhibit 1 of the application.

FSA No. 35384—*Starch or dextrine—Illinois Territory to Quinlan, Fla.* Filed by Illinois Freight Association, Agent (No. 57), for interested rail carriers. Rates on starch or dextrine, carloads from specified points in Illinois, Indiana, Iowa, and Missouri to Quinlan, Fla.

Grounds for relief—Competitive commercial relations with Jacksonville, Fla., and rail-truck competition.

Tariffs—Supplement 94 to Illinois Freight Association tariff I.C.C. 855; Supplement 142 to Southern Freight Tariff Bureau tariff I.C.C. 1548.

FSA No. 35385—*Coal—Southern mines to Sutton and Tampa, Fla.* Filed by O. W. South, Jr., Agent (SFA No. A3793), for interested rail carriers. Rates on fine screened coal, carloads from mines in Alabama, Kentucky, Tennessee and Virginia to Sutton and Tampa, Fla.

Grounds for relief—Market competition at destinations with like coals moving via barge from Uniontown, Ky., via river and Gulf routes.

Tariffs—Supplement 67 to Southern Freight Tariff Bureau tariff I.C.C. 1332 and two other schedules.

FSA No. 35386—*Phosphate rock—Florida mines to South Wilmington, Mass.* Filed by O. W. South, Jr., Agent (FSA No. A3795), for interested rail carriers. Rates on crude phosphate rock, not ground, carloads from Achan and Agricola, Fla., and other Florida mines to South Wilmington, Mass.

Grounds for relief—Rail-water-rail competition.

Tariff—Supplement 129 to Southern Freight Tariff Bureau tariff I.C.C. 1514.

FSA No. 35387—*Bituminous fine coal to Wisconsin points.* Filed by Illinois Freight Association, Agent (No. 54), for interested rail carriers. Rates on bituminous fine coal, carloads from mines in Illinois, Indiana and western Kentucky to Anson, Cornell, Jim Falls, and Norma, Wis.

Grounds for relief—Competitive destination rate relationship with Chippewa Falls and Eau Claire, Wis.

Tariff—Supplement 23 to Illinois Freight Association tariff I.C.C. 898 and other schedules listed in exhibit 1 of the application.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59-3543; Filed, Apr. 27, 1959; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—APRIL

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